SENATE

SATURDAY, *March 13, 1926*

(Legislative day of Thursday, March 11, 1926)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	Lenroot	Sheppard
Bingham	Fess	McKellar	Shipstead
Blease	Fletcher	McLean	Shortridge
Borah	Frazier	McNary	Simmons
Bratton	George	Mayfield	Smoot
Brookhart	Goff	Means	Stanfield
Broussard	Gooding	Neely	Stephens
Bruce	Greene	Norris	Swanson
Butler	Harreld	Nye	Trammell
Cameron	Harris	Oddie	Tyson
Capper	Harrison	Overman	Wadsworth
Caraway	Heflin	Phipps	Walsh
Copeland	Howell	Pine	Warren
Couzens	Johnson	Pittman	Watson
Cummins	Jones, N. Mex.	Ransdell	Wheeler
Dale	Jones, Wash.	Reed, Mo.	Williams
Deneen	Kendrick	Robinson, Ark.	Willis
Dill	King	Robinson, Ind.	
Edge	La Follette	Sackett	

The VICE PRESIDENT. Seventy-four Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the amendment of the Senate to each of the following bills:

H. R. 8316. An act granting the consent of Congress to the State Highway Commission of the State of Alabama to construct a bridge across the Coosa River near Wetumpka, Elmore County, Ala.;

H. R. 8382. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Aliceville, on the Gainesville-Aliceville road, in Pickens County, Ala.;

H. R. 8386. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Elk River, on the Athens-Florence road, between Lauderdale and Limestone Counties, Ala.;

H. R. 8388. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Scottsboro, on the Scottsboro-Fort Payne road, in Jackson County, Ala.;

H. R. 8389. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tennessee River near Whitesburg Ferry, on Huntsville-Lacey Springs road between Madison and Morgan Counties, Ala.;

H. R. 8390. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River near Jackson, on the Jackson-Mobile road, between Washington and Clarke Counties, Ala.;

H. R. 8391. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, on the Butler-Linden road, between the counties of Choctaw and Marengo, Ala.;

H. R. 8463. An act granting the consent of Congress to the construction of a bridge across the Red River at or near Moncla, La.;

H. R. 8511. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Tombigbee River, near Gainesville, on the Gainesville-Eutaw road, between Sumter and Green Counties, Ala.;

H. R. 8521. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River near Childersburg, on the Childersburg-Birmingham road, between Shelby and Talladega Counties, Ala.;

H. R. 8522. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Fayetteville, on the Columbia-Sylacauga road, between Shelby and Talladega Counties, Ala.;

H. R. 8524. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Samson, on the Opp-Samson road, in Geneva County, Ala.;

H. R. 8525. An act granting the consent of Congress to the highway department of the State of Alabama to reconstruct a bridge across Pea River, near Geneva, on the Geneva-Florida road, in Geneva County, Ala.;

H. R. 8526. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Choctawhatchee River, on the Wicksburg-Daleville road, between Dale and Houston Counties, Ala.;

H. R. 8527. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Pea River at Elba, Coffee County, Ala.;

H. R. 8528. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, on the Clanton-Rockford road, between Chilton and Coosa Counties, Ala.;

H. R. 8536. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across Tennessee River, near Guntersville, on the Guntersville-Huntsville road, in Marshall County, Ala.;

H. R. 8537. An act granting the consent of Congress to the highway department of the State of Alabama to construct a bridge across the Coosa River, near Pell City, on the Pell City-Anniston road, between St. Clair and Calhoun Counties, Ala.; and

H. R. 9095. An act to extend the times for commencing and completing the construction of a bridge across the St. Francis River near Cody, Ark.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 1343. An act for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age;

H. R. 60. An act for the purpose of reclaiming certain lands in Indian and private ownership within and immediately adjacent to the Lummi Indian Reservation, in the State of Washington, and for other purposes;

H. R. 5043. An act granting the consent of Congress to the Midland & Atlantic Bridge Corporation, a corporation, to construct, maintain, and operate a bridge across the Big Sandy River between the city of Catlettsburg, Ky., and a point opposite in the city of Kenova, in the State of West Virginia; and

H. J. Res. 197. A joint resolution to regulate the expenditure of the appropriation for Government participation in the National Sesquicentennial Exposition.

LETTER CRITICIZING SENATOR BLEASE

Mr. BLEASE. Mr. President, I send to the desk an article which I would like to have read.

The VICE PRESIDENT. Without objection, the clerk will read as requested.

The legislative clerk read as follows:

ON WITH THE DANCE

To the EDITOR CHICAGO DEFENDER:

I am a northern white Yankee and I am married to a colored lady, am proud of her, and I intend keeping her. There are hundreds of colored men here in Michigan who have white wives and love them and are doing fine, and intend keeping them; but I can't see where a certain ingrate from South Carolina who has introduced a bill in Congress to prevent it—intermarriage—gets on.

I am a northern Yankee, my forefathers have been, and believe that the best way to curb the like of such sewer disposals as COLE BLEASE is to give them plenty of shot and cannon music. I am the employer of colored help for a company here, and must say matters would not be so hard for you colored people if you would sacrifice a few lives and give these rebels a taste of northern medicine. Too long have we tolerated the Ku-Klux and such, and we know that nothing good comes from the South. If I were to seek the devil's playground, Dixie would be the only place I would find it.

Yes; I am a northerner, and what we did in 1861 can be done again. We are slow in our action of redress, but it is time that those uncivilized beasts be curbed, and if the clan of men like COLE BLEASE still persists we shall take devious means to advertise the South to the four corners of the world. I am a white man, but Lord deliver me from a southern white rebel.

You colored people brace up. If necessary I'll advertise the scandals of the South to all the world, and I can do it. I don't believe in seeing men treated as you are. I have the money and can, if necessary, placard every news stand in Europe, Asia, and Africa with literature that will do the South more harm than it is able to right in a thousand years.

And, COLE BLEASE, the quicker the earth receives your old, vile, dirty, polluted, ill-generated body the quicker a thousand nations will smile; and we long to take a good laugh. A northern white Yankee.

W. S. PAYNE.

DETROIT, MICH.

Mr. BLEASE. I would like to have the addendum read.

The legislative clerk read as follows:

The above article was printed in the Chicago Defender, the largest negro paper in the United States, Saturday, February 13, 1926. (Used without permission.)

Additional copies may be secured free of charge from Davis Printing Co., printing, engraving, embossing, 216 North Twenty-second Street, telephone Main 6972, Birmingham, Ala.

Mr. BLEASE. I only desire at this time to have the article read. I have received several newspapers recently containing copies of the same article. I shall use it later as a basis for some remarks.

SENATOR BURTON K. WHEELER

Mr. WALSH. Mr. President, I give notice that on Monday, at the close of the routine morning business or at the most convenient time thereafter, I shall address the Senate upon the criminal proceedings instituted in the State of Montana and in the District of Columbia against my colleague, the junior Senator from Montana [Mr. WHEELER], and shall submit for the consideration of the Senate a resolution in relation thereto.

PETITIONS

Mr. WILLIS presented a resolution adopted by the Northeast Ohio Conference of the Methodist Episcopal Church, favoring a proposed amendment to the Constitution prohibiting the making of sectarian appropriations, which was referred to the Committee on the Judiciary.

Mr. CAPPER presented a resolution adopted by W. T. Sherman Post, No. 113, Grand Army of the Republic, of Concordia, Kans., favoring the passage of legislation granting increased pensions to veterans of the Civil War, their widows and dependents, which was referred to the Committee on Pensions.

He also presented a petition of sundry citizens of Cloud County, Kans., praying for the passage of legislation granting increased pensions to veterans of the Civil War, their widows and dependents, which was referred to the Committee on Pensions.

He also presented petitions of sundry citizens of Wichita and Columbus, all in the State of Kansas, praying for the passage of legislation granting increased pensions to veterans of the war with Spain, their widows and dependents, which were referred to the Committee on Pensions.

Mr. LA FOLLETTE presented petitions of members of the faculties of the University of Wisconsin and of Beloit College, Wisconsin, praying for amendment of the existing copyright law so as to include copies made by the mimeographic process as well as those made by the photoengraving process, which were referred to the Committtee of Patents.

He also presented petitions numerously signed by sundry citizens of the State of Wisconsin, praying for the passage of Senate bill 98, granting increased pensions to veterans of the Spanish War, their widows and dependents, which were referred to the Committee on Pensions.

Mr. WADSWORTH presented resolutions adopted by the New York Baptist Missionary Convention, the Genesee Annual Conference of the Methodist Episcopal Church, the Northern New York Conference of the Methodist Episcopal Church, and the New York Conference of the Methodist Episcopal Church, favoring a proposed amendment to the Constitution prohibiting the making of sectarian appropriations, which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

Mr. WADSWORTH, from the Committee on Military Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 1786) to equalize the pay of retired officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service (Rept. No. 364);

A bill (S. 2996) to validate payments for commutation of quarters, heat, and light, and of rental allowances on account of dependents (Rept. No. 365); and

A bill (S. 3037) to provide retirement for the Nurse Corps of the Army and Navy (Rept. No. 376).

Mr. McNARY, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 718) authorizing an appropriation to be expended under the provisions of section 7 of the act of March 1, 1911, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended, reported it without amendment and submitted a report (No. 366) thereon.

He also, from the Committee on Indian Affairs, to which was referred the bill (S. 720) to amend an act of March 3, 1885, entitled "An act providing for allotment of lands in severalty to the Indians residing upon the Umatilla Reservation, in the State of Oregon, and granting patents therefor, and for other purposes," reported it with an amendment and submitted a report (No. 367) thereon.

Mr. SACKETT, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2646) to provide cooperation to safeguard endangered agricultural and municipal interests and to protect the forest cover on the Santa Barbara, Angeles, San Bernardino, and Cleveland National Forests from destruction by fire, and for other purposes, reported it without amendment and submitted a report (No. 368) thereon.

Mr. STANFIELD, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 5961) granting certain public lands to the city of Stockton, Calif., for flood control, and for other purposes, reported it without amendment and submitted a report (No. 369) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (S. 2730) to amend section 1155 of an act entitled "An act to establish a code of law for the District of Columbia," reported it without amendment and submitted a report (No. 370) thereon.

Mr. BINGHAM, from the Committee on Military Affairs, to which was referred the bill (S. 587) for the relief of John O'Brien, reported it without amendment and submitted a report (No. 371) thereon.

Mr. JONES of Washington, from the Committee on Appropriations, to which was referred the bill (H. R. 9795) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1927, and for other purposes, reported it with amendments and submitted a report (No. 372) thereon.

Mr. SMOOT, from the Committee on Appropriations, to which was referred the bill (H. R. 6707) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes, reported it with amendments and submitted a report (No. 373) thereon.

Mr. CAMERON, from the Committee on Military Affairs, to which was referred the bill (S. 1895) to correct the military record of George Patterson, deceased, reported it with an amendment and submitted a report (No. 374) thereon.

Mr. HARRELD, from the Committee on Indian Affairs, to which was referred the bill (S. 3538) authorizing the Secretary of the Interior to pay legal expenses incurred by the Sac and Fox Tribe of Indians of Oklahoma, reported it without amendment and submitted a report (No. 375) thereon.

Mr. BRUCE, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to, and the bills were indefinitely postponed:

A bill (S. 1574) for the relief and to correct the military record of Kathryn C. Hopkins; and

A bill (S. 2129) for the relief of Henry Mathews.

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day that committee presented to the President of the United States the enrolled bill (S. 1343) for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CUMMINS:

A bill (S. 3545) to amend an act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, and acts in amendment thereof; to the Committee on the Judiciary.

By Mr. SWANSON:

A bill (S. 3546) providing for the conveyance to the Comte de Grasse Chapter, Daughters of the American Revolution, of site of old graveyard and church in Nelson district, county of York, State of Virginia; to the Committee on Naval Affairs.

By Mr. McKELLAR:

A bill (S. 3547) to change the title of Deputy Assistant Treasurer of the United States to Assistant Treasurer of the United States; to the Committee on Banking and Currency.

By Mr. BRATTON:

A bill (S. 3548) for the relief of Joe S. Duran; to the Committee on Finance.

By Mr. GOFF:

A bill (S. 3549) for the relief of R. P. Biddle; to the Committee on Claims.

By Mr. HARRIS:

A bill (S. 3550) providing for an inspection of the Kennesaw Mountain and Lost Mountain and other battle fields in the State of Georgia; to the Committee on the Library.

By Mr. STANFIELD:

A bill (S. 3551) for the relief of William J. O'Brien; to the Committee on Claims.

A bill (S. 3552) granting an increase of pension to Theodore Hansen; to the Committee on Pensions.

By Mr. KENDRICK:

A bill (S. 3553) to provide for the storage for diversion of the waters of the North Platte River and construction of the Casper-Alcova reclamation project; to the Committee on Irrigation and Reclamation.

By Mr. HARRELD:

A bill (S. 3554) granting a pension to Emma M. Norton (with accompanying papers); to the Committee on Pensions.

By Mr. COPELAND:

A bill (S. 3555) for the relief of the Rochester Merchandise Co.; to the Committee on Claims.

A bill (S. 3556) to regulate interstate and foreign commerce in coal and to promote the general welfare dependent on the use of coal, and for other purposes; to the Committee on Education and Labor.

By Mr. DILL:

A bill (S. 3557) to authorize the construction of a bridge over the Columbia River at a point within 1 mile upstream and 1 mile downstream from the mouth of the Entiat River in Chelan County, State of Washington; to the Committee on Commerce.

By Mr. WADSWORTH:

A bill (S. 3558) authorizing appropriations for construction at military posts, and for other purposes; to the Committee on Military Affairs.

CHANGE OF REFERENCE

On motion of Mr. CAPPER, the Committee on Claims was discharged from the further consideration of the bill (S. 3363) authorizing and directing the Secretary of the Interior to examine a certain Senate report on Indian traders and to take certain action in respect thereto, and for other purposes, and it was referred to the Committee on Indian Affairs.

COASTAL LANDS IN ALABAMA, FLORIDA, AND MISSISSIPPI

Mr. TRAMMELL submitted an amendment intended to be proposed by him to the bill (S. 3224) for the disposition of certain coastal lands in Alabama, Florida, and Mississippi, and the adjustment of claims arising from erroneous surveys, which was referred to the Committee on Public Lands and Surveys and ordered to be printed.

MUSCLE SHOALS

Mr. FESS obtained the floor.

Mr. HEFLIN. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Alabama?

Mr. FESS. For what purpose?

Mr. HEFLIN. I wish the Senator would yield to me for a few moments. On yesterday, when House Concurrent Resolution No. 4, with reference to Muscle Shoals, came over from the House, my friend the Senator from Tennessee [Mr. MCKELLAR] asked that it go over in order that he might look into the two amendments of the House to Senate amendments. I consented to that procedure. I would like to call up the concurrent resolution at this time in order to move that the Senate concur in the House amendments.

Mr. SMOOT. If the Senator will ask unanimous consent, I shall have no objection, but I do not want a motion made that would displace the unfinished business. I do not think there will be any objection if the Senator asks unanimous consent.

Mr. HEFLIN. I ask unanimous consent for the present consideration of the two amendments of the House to amendments of the Senate to the Muscle Shoals resolution.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama?

Mr. FESS. Reserving the right to object to the unanimous-consent request, I recognize the importance of speedy action upon the resolution if we can have it, although I would not want to displace the unfinished business before the Senate unless it be satisfactory to the author of the bill, the Senator from Idaho [Mr. GOODING]. I wonder whether the Senator from Alabama has any idea about how much time the consideration of the Muscle Shoals matter will consume.

Mr. HEFLIN. I think it will take only a very short time. The Senator from Idaho [Mr. GOODING] gave me his consent to take up this resolution.

Mr. GOODING. I am quite willing to yield if it does not take too long to dispose of the Muscle Shoals resolution.

Mr. FESS. Then I shall have no objection.

The VICE PRESIDENT. Is there objection?

Mr. MCKELLAR. I have no objection to taking up the amendments of the House to the amendments of the Senate, but I want to ask the Senator from Alabama [Mr. HEFLIN] some questions in reference to those amendments.

Mr. SMOOT. The Senator from Tennessee does not think it will take very much time to dispose of the matter?

Mr. MCKELLAR. I do not think it will take a great while to dispose of it, but there are some matters in connection with the amendments which ought to be considered.

Mr. FESS. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. FESS. If I shall now yield to the Senator from Alabama [Mr. HEFLIN], and the amendments of the House shall be taken up and considered, will I lose the floor?

The VICE PRESIDENT. If the Senator from Ohio now yields the floor, the Chair will recognize him when the debate on the question shall have been concluded.

Mr. HEFLIN. No objection was made, Mr. President, to my request for the consideration of the House amendments.

Mr. REED of Missouri. Mr. President, before the vote is taken I wish to say a word on the concurrent resolution.

The VICE PRESIDENT. Is there objection to the consideration of the amendments of the House to the amendments of the Senate to the concurrent resolution?

There being no objection, the Senate proceeded to consider the amendments of the House to the amendments of the Senate Nos. 1 and 4 to House Concurrent Resolution No. 4 providing for a joint committee to conduct negotiations for leasing Muscle Shoals.

The amendments of the House to the amendments of the Senate are as follows:

In lieu of the matter inserted by amendment No. 1 insert the following: "or leases (but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided.)"

In amendment No. 4, on page 1, line 20, strike out the period and insert the following: ": *And provided further*, That the committee in making its report shall file for the information of the Senate and House of Representatives a true copy of all proposals submitted to it in the conduct of such negotiations."

Mr. MCKELLAR. Mr. President, if I may, I desire to ask the Senator from Alabama [Mr. HEFLIN] a question. I notice on page 1, line 10, of the resolution the House of Representatives has proposed this amendment, which is embraced in parenthesis:

(but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided).

I should like to ask the Senator from Alabama what that language means and what is its purpose?

Mr. HEFLIN. The language which was inserted in the Senate amendment by the House of Representatives, Mr. President, is exactly the language contained in section 14 of the McKenzie bill, which embodied the Ford offer.

Mr. MCKELLAR. Mr. President, what seems to be embodied in this language is already provided for in lines 9 and 10, on page 2, of the concurrent resolution; and I am wondering why that particular language in the Ford offer—it was a very long instrument—was singled out and made the subject of an amendment by the House of Representatives when the House was so anxious just a few days ago to have the resolution passed without any amendment and without containing this language?

Mr. HEFLIN. House bill 518, Sixty-eighth Congress, first session, referred to in the concurrent resolution, provides that there shall be manufactured "nitrogen and other commercial fertilizer, mixed or unmixed."

The House thought that if somebody leased plant No. 1 or plant No. 2 and somebody else should lease the dam it might interfere with the original purpose to make at Muscle Shoals fertilizers for the farmers. So the House of Representatives, which has gone on record three times in favor of making fertilizers at Muscle Shoals, took this precautionary step to safeguard the interests of the farmer and to emphasize the necessity for making fertilizers for him.

Mr. McKELLAR. What I want to know is how that language safeguards the manufacture of fertilizers for the farmer. The amendment proposed by the House of Representatives reads:

> The production of nitrates and other fertilizer ingredients, mixed or unmixed, primarily as hereinafter provided.

I do not find any provision to that effect following the amendment. It would apparently look as if it were intended that whoever got the plant might manufacture certain chemicals there, and that the manufacture of those chemicals, which might or might not be used for fertilizer, would be a compliance with the lease provisions which are intended to be inserted.

Mr. HEFLIN. Oh, no, Mr. President. The gentlemen who put in this language have been for the farmer all the way through; they have tried to make sure the making of fertilizers at Muscle Shoals.

Mr. McKELLAR. I am wondering whether they are for the farmer, as the Senator from Alabama has been, or whether they are really for the farmer in this case. I am just wondering about that.

Mr. HEFLIN. I am right where I have been all the time. My friend from Tennessee can not say quite as much.

Mr. McKELLAR. I do not know. I think the Senator from Alabama is in a very different situation from what he previously was. My recollection is that he was declaiming mightily for the farmers; but the other day when I asked him what he would do if the Fertilizer Trust got hold of the plant and secured a lease, the Senator was strangely silent as to what his attitude would be. However, that is neither here nor there, Mr. President.

I wish to say in reference to this amendment that I am opposed to it. I am going to vote against it if I shall have the opportunity to vote against it, and I suppose I shall. However, I understand that those who were in charge of the resolution the other day when I was necessarily called away have no objection to the amendment. Therefore, I am not going to override their judgment in the matter.

I merely wish to repeat here that I think there is nothing in the amendment except possibly it makes it more involved. There may be a joker in it, but if there is I suppose it will be disclosed before the lease comes in. I wish to ask the Senator from Alabama, in this connection, when the lease shall come back, do I understand, and does the Senator understand, that the lease or leases are to be referred to the Committee on Agriculture and Forestry for appropriate action?

Mr. HEFLIN. I do not know, Mr. President. The lease or leases have got to be referred to the Senate and the House, and all the bids will be filed by the joint committee.

Mr. McKELLAR. I understand that; but what I want to know is, Are these bids to have the consideration of the appropriate committees in both the House and the Senate?

Mr. HEFLIN. I do not know.

Mr. McKELLAR. The Senator ought to know something about what is intended.

Mr. HEFLIN. The House and the Senate will determine that matter when the committee shall have rendered its report.

Mr. McKELLAR. I take it that it is beyond controversy that when the lease or leases shall be reported to the Senate they will be referred to the appropriate committee by the Senate.

Mr. HARRISON. Mr. President, may I ask the Senator from Tennessee why should the lease or leases go to a regular committee of the Senate? Here we are designating a joint committee of the two Houses to investigate the proposition and do the work of the regular committee of the Senate. That committee makes its recommendation, and then it will be for the Senate and House to consider the proposal. If we have got to wait for the joint committee to make its recommendations and then have them referred to the regular committee of the Senate and the regular committee of the House, we shall never get any action upon this proposition at all.

Mr. SWANSON. Mr. President, of course if the committee shall report any bill, as the resolution provides, the bill will come here under the rules of the Senate, subject to the will of the Senate.

Mr. McKELLAR. Will it not be referred to any committee?

Mr. SWANSON. It will not be necessary that it should be referred to a committee unless the Senate wishes to take that course. The Senate can proceed to consider measures that are reported here by a special joint committee.

Mr. McKELLAR. Mr. President, I take it that it is beyond controversy that any proposal which may be submitted should go to the appropriate committee. I am astonished to think that anyone would contend for a moment that a lease that is brought here under this resolution would be considered without being referred for consideration to the appropriate committee.

Mr. SWANSON. The proper time to make that contention or argument is when the bid comes here.

Mr. McKELLAR. I understand that, but I wanted to have some understanding about this matter beforehand, if it were possible to do so. I think we are voting for a cat in a bag, and I am opposed to voting for cats in bags. I should like to know what I am voting for.

Mr. CARAWAY. Mr. President, will the Senator permit me to interrupt him?

Mr. McKELLAR. Yes.

Mr. CARAWAY. If I were to say what I really think, the facts are probably I might be thought to be discourteous, but the action of the House in concurring accepts the amendments of the Senate absolutely as they are written. The action of the House does not change one single thing. For reasons that it is not worth while to go into, they wanted to concur with an amendment; that is all. I hope, therefore, that the Senate will concur in the suggested amendment of the House, because the resolution is exactly that which was adopted by the Senate by an overwhelming vote.

Mr. McKELLAR. Mr. President, may I ask the Senator from Arkansas if he is convinced that the particular amendment to which I have referred does not in any way alter the resolution as it was adopted by the Senate?

Mr. CARAWAY. It absolutely does not alter the resolution as it was adopted by the Senate.

Mr. REED of Missouri. Mr. President, I could not be present in the Senate at the time when the concurrent resolution was originally adopted by the Senate, and I have no desire to delay action upon it. I simply wish to put of record my position.

We were told when the Government was asked to take over Muscle Shoals and improve it that there was there a water power of incalculable value; that the construction of the works and the harnessing of the power would advantage directly a large section of the United States, and all of the United States would be indirectly benefited. If the statements of fact made at that time were accurate, then we are dealing with one of the very largest propositions of a domestic character that will come to our attention.

I am opposed on principle to Government ownership and operation of business concerns; but there is no rule that can be invariable in its application or, to state it differently, so invariable that it can be applied to every set of facts. My opinion is that we would never have had or would not for a great many years have had successful navigation on the Mississippi River if it had been left to private enterprise; that we would never have had successful improvement of our rivers and our great harbors if the work had been left to private enterprise, and likewise we would never have had the improvements which have taken place on the Great Lakes if the project had been left to private enterprise. While I understand perfectly that certain other principles intervene, still the difficulty of conducting private business can be said to exist with reference to such improvements and with reference to the particular business now being conducted on some of our great rivers.

While the illustrations I have given are not absolutely in point, I think they have a bearing upon the pending question. I think if we lease the works at Muscle Shoals the benefits which we were told will inure to the people of the United States will never come, except in a very modified way, and perhaps no special benefit whatever will accrue.

The Government has invested an enormous sum of money at Muscle Shoals. I think it ought to complete the works there; that it ought to employ the best engineering talent that can be obtained to manage them; and that the Government ought to conduct them until such time as private parties can come forward with a proposition which we know is sound.

Under this concurrent resolution, as I read it, leases can be entered into that have all of the defects that existed in the propositions which have been heretofore debated and substantially condemned. I am opposed to throwing away or frittering away this great investment of our Government, and I am also opposed to any proposition which demands that for 50 years this great investment shall be devoted to making fertilizer or nitrates or any other particular product, for the very simple reason that it may not be five years of time until some method of solution of the entire fertilizer problem will have been discovered; and, in my judgment, leases made for 50 years under these circumstances are unwise and improvident.

I simply desire to state my position. I believe this is a surrender of a large part of the value of this huge investment. I believe it to be unwise and unsound. I do not expect what I have said here to stop the passage of this measure for a moment. I simply want the RECORD to show my opposition to it.

Mr. HEFLIN. Mr. President, I move that the Senate concur in the House amendments.

Mr. HARRISON. Mr. President, there seems to be some question here as to what should be the procedure of the Senate when these proposals are returned. It seems to me that in considering and passing upon this concurrent resolution there should be no misgivings as to its terms.

The Senator from Tennessee [Mr. MCKELLAR] evidently has the impression that when this joint committee makes its report, on or before the 26th of April, with its recommendations and its appropriate bill, the bill then is to be referred to the Agricultural Committee, and that the Agricultural Committee then will take weeks, perhaps, to consider it, and then it will be brought back to the Senate for consideration.

Mr. MCKELLAR. Mr. President——

Mr. HARRISON. I do not interpret this concurrent resolution in any such way. I think the concurrent resolution is plain with respect to that matter. I think the two Houses of Congress in passing this resolution intend that a joint committee be appointed, clothed with the authority to make a full investigation of this subject, consider all the bids that may be proposed, come to a conclusion as to which is the best, and then to write their recommendation, with an appropriate bill for the consideration of both branches of the Congress. Certainly, if that is not the intention, we are doing an idle thing in the appointment of this joint committee. The appointment of the joint committee is intended to supersede and do the work of the appropriate standing committees of the two Houses. Any other construction means a veto of the action of the joint committee—a reconsideration by another committee of its action.

Mr. MCKELLAR. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; in a moment.

Mr. HEFLIN. Mr. President, I hope this will not lead to any controversy. If it does, I shall have to withdraw this matter.

Mr. HARRISON. I do not care whether it leads to any controversy or not. This is a very important question, and there is no reason why we should have any doubt about its provisions now.

Mr. NORRIS. Mr. President, may I say, with the permission of the Senator, that I do not want the Senator from Alabama hereafter to say that those who were opposed to the original resolution, like myself, are taking the time of the Senate. I had no intention of saying a word. I do not care whether this motion is agreed to or whether it is not agreed to; and I am not finding fault with the Senator from Mississippi. I am not objecting to his debating it as long as he wants to; but I simply want to say to the Senator from Alabama that if this matter is debated along the lines that I think the Senator from Mississippi is taking, and that he has a perfect right to take if he wants to, I expect to participate in the debate, and I do not want it said hereafter that I am trying to kill time with it. I am ready to vote on the matter without any debate; but it can not be expected that one side of it shall be debated and the other side remain silent. I want to give notice of that now.

Mr. HEFLIN. I promised the Senator from Idaho [Mr. GOODING] that I would take only a moment or two; and the Senator from Ohio [Mr. FESS] had the floor, and he said that if the matter would not take more than a minute he would yield. That is the understanding with which we got it up, and I hope my friend from Mississippi will not take any time on the matter.

Mr. HARRISON. Mr. President, I do not care what the Senator from Ohio said about taking a minute. This is a question that deserves more than a minute's time for the consideration of the Senate; and it is much better for it to be withdrawn if we are going to restrict ourselves to a minute's discussion of a question that goes to the very vitals of the resolution. I am more interested in this question than I am in the long and short haul bill that is before the Senate, or the appropriation bill that is before the Senate, or any other pending question; and we had better understand what is in this concurrent resolution before it is passed, rather than wait and then fritter away weeks of time in a discussion of a parliamentary question, when the report of the joint committee is made.

Here is what the concurrent resolution says:

> Said committee shall have leave to report its findings and recommendations, together with a bill or joint resolution, for the purpose of carrying them into effect, which bill or joint resolution shall, in the House, have the status that is provided for measures enumerated in clause 56 of Rule XI.

Clause 56 of Rule XI in the House gives certain committees a right to report at privileged times, that priority or preference, so to speak, may be given then in their status; and it seems to me that it was certainly the intention of the framers of this concurrent resolution that this joint committee was to be given full authority to consider these proposals, write its recommendations, draft a bill, report it to the House and Senate, and make it subject to consideration by the House and Senate, as if it had been reported by standing committees. If that is not the right construction, then we are only providing here for the naming of a joint committee to receive proposals, with no jurisdiction to report a bill that will be placed upon the calendar, so that the subject can be speedily dealt with and a conclusion expedited by the House and Senate. In other words, if that construction is incorrect, we have merely taken up weeks and months of the Senate's time considering a resolution that does nothing but delay the action of the Congress. The whole theory of the proponents of the resolution was to press for a consideration of the subject and a prompt solution of the question.

Mr. SWANSON. Mr. President, will the Senator yield?

Mr. HARRISON. Of course I submit that that is a question, when it comes back here, for the Senate to pass on, that the Senate has full power to say that it shall go to a standing committee, but that will take a majority vote. A majority of the Senate can do most anything. But, sirs, when I voted for this resolution, I did it under the impression that this committee had authority to go out and study this question and make its recommendations, and that on the proposals submitted here the Senate would, after discussion, express itself. I had no idea that the proposition was to go back to another committee to be further debated and delayed.

Mr. SWANSON. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; I yield.

Mr. SWANSON. The question will come back on the bill reported under the rules of the Senate. The question will be debated then as to whether the rules of the Senate were modified by this concurrent resolution. If it is held that the rules of the Senate were modified, then the bill will be like a bill reported by a committee. If they were not modified, it will not be. That is a question to be determined when the bill comes up; but a motion can be made to refer it to any committee, which will be voted on; and it seems to me the proper time to discuss the interpretation of the rules as modified or not modified by this concurrent resolution is when the committee reports the bill.

Mr. HARRISON. Of course, a motion can be made to refer it to a committee, and the Senate by a majority vote can carry it there; but I am now basing my interpretation on what the intention of the proponents of this measure was, and I was under the impression all the time that it would not come back again to a committee.

Mr. MCKELLAR. Mr. President, will the Senator yield?

Mr. HARRISON. Yes; I yield.

Mr. MCKELLAR. Can the Senator point to any rule of the Senate which provides that a bill reported by a joint committee of the two Houses shall be the same as a bill reported by a committee of the Senate?

Mr. HARRISON. No; except the general terms of this concurrent resolution and a fair interpretation of it.

Mr. MCKELLAR. That refers to the House, but does not refer to the Senate, leaving the Senate rules in full force and effect.

Mr. HARRISON. It shows that the intention of the framers was that in the House it should not have to go back to a committee, and that here it should not have to go back to a committee.

Mr. MCKELLAR. By a process of exclusion that would indicate that here it was to go to a committee.

Mr. HARRISON. But I do not care to take up the time of the Senate. I merely wanted to express my opinion of this proposition.

Before I close, let me say that I do not think the amendment that is placed by the House in this concurrent resolution changes the concurrent resolution substantially. I am in favor of incorporating this amendment in the measure and hope it will be concurred in. As we have reached this particular point in this discussion, I want to pay my tribute to the distinguished Senator from Alabama [Mr. HEFLIN].

Mr. President, he has borne the brunt of this fight. In the consideration of this question in the prior Congresses his distinguished colleague [Mr. UNDERWOOD] handled it splen-

didly. The great work he has done and the services rendered by him are reflected in the consideration of this resolution. The measure that bore his name should have become a law. But it did not. It was defeated. It was due, though, to no fault of the senior Senator from Alabama [Mr. UNDERWOOD]. In the discussion of this resolution the distinguished senior Senator from Alabama has been denied, because of illness, from taking part; but, sirs, the splendid qualities of his leadership has been fully supplied by his colleague, the distinguished junior Senator from Alabama [Mr. HEFLIN]. This measure could not have been handled better nor higher results obtained by any other. The junior Senator has displayed those high talents of leadership in defending and pressing this measure that insures success. For weeks he has met every attack and constantly pressed every opening. His adroitness, perseverance, knowledge, and eloquence are about to be rewarded in the final adoption of this House amendment.

The people of Alabama and of the South should be, and I am sure they are, proud of the junior Senator from Alabama. Some thoughtless allusions have been made in the heat of this debate to the effect that he was no friend of the farmers. Why, sirs, his long and honorable record, both in the House and in the Senate, refutes any such suggestion. For 15 years I have served with him either in one or the other branch of the Congress, and during that time I know that no other public servant has striven harder and with better results for the great agricultural interests of the country than he. His arm has grown strong and his voice more eloquent in their service.

I hope this is the beginning of a brighter day for the development of Muscle Shoals, and that from this action a proposal will be born that will give relief to agriculture and the highest and most useful service to the South and the whole country. It is to be hoped that such a proposal will come that we can unanimously accept it.

Mr. HEFLIN. Mr. President, I ask for a vote.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 1.

Mr. NORRIS. Mr. President, I take it that the matter is still debatable, notwithstanding the request of the Senator from Alabama, who has just been eulogized so warmly as to bring blushes to his face.

I desire to read, Mr. President, paragraph 56 of Rule XI of the House of Representatives:

56. The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), on rules, joint rules, and order of business; the Committee on Elections, on the right of a Member to his seat; the Committee on Ways and Means, on bills raising revenue; the Committee on Appropriations, the general appropriation bills; the Committee on Rivers and Harbors, bills authorizing the improvement of rivers and harbors; the Committee on Public Lands, bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers; the Committee on the Territories, bills for the admission of new States; the Committee on Enrolled Bills, enrolled bills; the Committee on Invalid Pensions, general pension bills; the Committee on Printing, on all matters referred to them of printing for the use of the House or two Houses; and the Committee on Accounts, on all matters of expenditure of the contingent fund of the House.

It shall always be in order to call up for consideration a report from the Committee on Rules and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present, nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.

The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately it shall be referred to the calendar, and if not called up by the Member making the report within nine days thereafter, any Member designated by the committee may call it up for consideration.

That is paragraph 56 of Rule XI of the House of Representatives, the one referred to in this concurrent resolution. I would not say a word, and had not intended to say a word, if it had not been for the fact that the Senator from Mississippi [Mr. HARRISON] has given the Senate to understand that when this joint committee shall report back to the Senate, the bill they report will not have to go to a committee, but will come before the Senate under paragraph 56 of Rule XI, just read by me, which applies only to the House of Representatives—because in this resolution it is said that the bill or joint resolution in the House of Representatives shall be entitled to the privileges named in the rule which I have read.

The joint committee will have to report to the House and the Senate. It will report, undoubtedly, by a joint resolution or a bill, and the measure will be handled in the same way any other bill or joint resolution would be. It will come into this body and, of course, be subject to the rules of the Senate. As to what shall be done with it, whether it shall automatically, under the rules of the Senate, be referred to the appropriate committee or whether it shall be taken up without being considered by a committee, is something that will be determined then, and I regret that the question is raised now. But the Senator from Mississippi proceeds on the theory that when a bill or joint resolution shall be reported by this joint committee, it will not be referred to one of the standing committees of the Senate, and for fear that when the report comes in the statement of the Senator from Mississippi, undisputed and unanswered, will be taken as indicating the unanimous consent of the Senate, I have taken the floor now to call that proposition in question.

I admit that it will be within the power of the Senate to do whatever it pleases with the report of the committee, but under the rules of the Senate it should automatically be referred by the Presiding Officer to the appropriate committee. If the joint committee shall report a bill to the Senate, I do not believe anyone would contend for a moment that the bill should be taken up and passed, unless it were by unanimous consent, without being referred to a committee. It will receive the same treatment any other bill would receive. It will be the same as though the Senator from Mississippi, who is honoring me with his attention, introduced a bill on the same subject. It may be the bill he would introduce verbatim, word for word; but if he introduced it, it would have to be referred to a committee. It may be a bill entirely different in every respect from any bill on this subject that has ever been introduced, and the question as to what shall be done with it will be taken up when the bill is introduced. I simply wanted to call attention to the fact that it is not to be taken that the expression of the Senator from Mississippi as to what should be done with the bill when it comes back is acquiesced in as being in accordance with the rules of the Senate.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Tennessee?

Mr. NORRIS. I yield.

Mr. McKELLAR. I merely wish to say that I indorse what the Senator from Nebraska has just said with reference to the course the bill reported by the joint committee will take, and I give notice, if any notice is necessary, that I do not admit that anything which takes place here to-day indicates my agreement with the theory of the Senator from Mississippi.

Mr. NORRIS. In closing, if I were able, I would add to the eulogy paid the junior Senator from Alabama [Mr. HEFLIN] by the Senator from Mississippi in the very eloquent speech he has just made.

I want to join the Senator from Mississippi, in the same spirit and in the same mood he has manifested, in paying my respects to the Senator from Alabama for the magnificent management and parliamentary legerdemain that he has shown in his control of the situation. He has shown a wonderful leadership. It did not commence with this session of Congress. At a prior session his colleague led the fight, and did not finally succeed, although there was quite a large percentage of the Senate, perhaps a majority, who favored the bill he was advocating.

The junior Senator from Alabama, now having the leadership in his hands, is bringing about a vastly different result. He has succeeded in getting the resolution through. He has succeeded because he is the leader not only on the other side but on this side. He has succeeded, Mr. President, because he was selected to be the general on this occasion by the general of all of us, the man in the White House. He has succeeded because the President of the United States, for whom he has been a personal representative not only on the floor of the Senate but in the committee, has been able, through him, to get his commands put into law by Senators on this side, as well as Senators on the other side.

Our leader, Mr. President, has had a vacation. He is not in the Senate. He has gone to Florida, because it is unnecessary for him to be here to handle this great Republican aggregation. The leadership has been placed in the hands of the Senator from Alabama. Unless we consider the case of his colleague in the prior Congress in managing this question, who was in a similar position, it is the first time in the history of the Senate when such a magnificent tribute has been paid to *any man* by the President of the United States, in selecting a leader to carry through the legislation he wants in favor of the Water Power Trust. It is a great honor that he should look into the bright, smiling countenances on the Republican side, and turn them all down in favor of the junior Senator from Alabama. [Laughter.]

The selection of the junior Senator from Alabama to lead this magnificent fight on to victory has enabled our great leader, the Senator from Kansas [Mr. CURTIS] to take a much-needed rest. We did not need him. He is recuperating, because I presume when the Senator from Alabama lays down the great burdens that are on his shoulders as a leader not only of the Democrats but of the Republicans, and as the mouthpiece of the administration, he will be weary and, this fight being over, will need a rest. By that time our great leader, the Senator from Kansas, will have returned, and he can take his old place again without any fear of being even humiliated by the change that has taken place.

Mr. FESS. He will be here to-day.

Mr. NORRIS. The Senator from Ohio says he will be here to-day, coming back just in time to take up the burdens as the Senator from Alabama lays them down. [Laughter.] So, Mr. President, there is a happy result in the wind-up of this affair. I did not know they were managing the thing by such close clockwork, but it seems they have been. We will not be without a leader, thank God. When the Senator from Alabama leaves to rest up from the burdens which have been on his shoulders we will again have the Senator from Kansas, with all the life and vigor that a recreation and a vacation of two or three weeks will give. He went away in the perfect assurance that nothing would be lost while he was gone. He knew that Senators on this side, faithful followers of his, would be glad and delighted, under the advice of President Coolidge, to follow even a greater man on to victory for the trusts and the monopolies, under the leadership of the Senator from Alabama.

Mr. GEORGE. Mr. President, I do not care to delay the vote, but since the question has arisen as to whether or not the report of this special committee will come back to the Senate for action without reference to a committee or whether it will be handled as all other matters of legislation are handled, by reference to a committee, and especially in view of the position taken by the Senator from Mississippi, I desire to make my position clear.

I shall insist, when that question arises in the Senate, that the report of the special committee go to the appropriate standing committee, and I wish to say that I shall base my contention then upon a fact which appears in the resolution itself.

When this concurrent resolution came over from the House and we were told it could not be amended at all, or changed in any respect, it provided for the appointment of a committee to negotiate a lease; but notwithstanding the advice given us repeatedly the Senate was inconsiderate enough to adopt an amendment, and the resolution now provides that the joint committee is authorized and directed to conduct negotiations for a lease *or leases*. Are we to assume that if the joint committee should receive a number of bids, or more than one, it would itself assume the authority and power to select the bid which had made the greatest appeal to it, the committee, and although we have especially instructed the committee to negotiate leases, we would be permitted to consider only the lease which the committee might elect to submit to the Senate for consideration? I take it that the amendment meant that whatever this joint committee did would be submitted to the Senate, and if it did negotiate more than one lease that the two or three or four leases would certainly go to the appropriate committee of the Senate for consideration by that committee.

There is another matter to which I desire to call attention. The Senator from Mississippi said that if this joint committee should report by or before the 26th day of April, 1926, we would then be in position to proceed at once with the consideration of its report. I hope there will be no indecent haste upon the part of this joint committee. I hope it will hold the bidding open until April 26, because I think that was the intent of the Senate in adopting that amendment. I hope the committee will not close the bidding immediately upon the receipt of one bid, or of even two bids, but that it will carry out the spirit and intent and purpose of that amendment which the Senate put into this resolution and hold the bidding open until the 26th of April, or at least until that date is in sight.

My position on the matter I have already made clear. I do not need to repeat what I have said, but I want to add to what the distinguished Senator from Nebraska [Mr. NORRIS] has said about the leadership under which the resolution was carried through. I desire to call attention to the fact that it was carried through largely by the votes of our friends on the other side of the aisle. I wish to emphasize the one thought that the great controlling purpose is to provide cheaper nitrates for the American farmer, and yet I can not refrain from directing attention to the fact that the only competitor of nitrate, which we now import from Chile, is ammonium sulphate, that that is the real competitive ammoniate used in the manufacture of commercial fertilizer, and that the vast majority of those who supported and followed the leadership of the distinguished Senator from Alabama had heretofore placed a duty of $5 per ton upon ammonium sulphate. Notwithstanding that fact, Chilean nitrate is coming into the country over the $5 per ton bar.

I beg leave to suggest even to the President and to his faithful adherents who have followed the leadership of the Senator from Alabama for the one purpose of providing cheaper nitrates for the American farmers that if they will take off the duty of $5 per ton upon the chief ammoniate, and the only competitor of Chilean nitrate, the President and his followers who have thus aided the distinguished Senator from Alabama, my personal friend, will do more to cheapen nitrates than will be accomplished by the pending concurrent resolution or any bid that will be submitted to the committee and finally ratified by the Congress. I just throw out that suggestion. I am sure the President did not think of it when he was mobilizing the forces here for an assault upon the high prices paid by the American farmers for Chilean nitrate, or nitrate of soda, as we call it.

Mr. President, I shall hope, when the bids are received by the joint committee, that the appropriate committee of the Senate will have the right to inspect the several leases before the Senate is called upon to ratify merely one particular lease that may be selected out of the number by the joint committee.

Mr. RANSDELL. Mr. President, I shall detain the Senate just a moment. I wish to say that I was unavoidably absent when the concurrent resolution was acted on, or I should have been glad to participate in the debate. I have listened with interest to what was said by the Senator from Georgia [Mr. GEORGE], and I wish to add that, in my judgment, we can do a great deal to get cheap nitrates and other fertilizers for the farmers of the country by utilizing the big plant at Muscle Shoals as a great chemical laboratory and learning how to make cheap fertilizer, emulating, if you please, the splendid example which has been set and obtaining the remarkable results which have been secured by the great chemists of Germany.

If I am correctly informed, when the World War broke out, Germany was importing over 700,000 tons of Chilean nitrates per annum. The war completely shut out the importation of nitrate into Germany, and yet she did not suffer, because her chemists ascertained how it could be manufactured at home. They are now manufacturing it very largely, and that, too, without the aid of hydroelectric power. Their power is obtained from low-grade coal. They make a very great quantity of nitrate, importing only a small portion of their needs from Chile. Why can not we do likewise? Why can not our chemists learn how as those of Germany have learned?

There is pending in the Senate a bill which I had the honor to introduce in reference to Muscle Shoals, which would create a great laboratory at the nitrate plant there. It would instruct the Department of Agriculture to investigate to the fullest degree what may be accomplished not only with nitrates but with phosphoric acid, with potash, and with everything else in the chemical line that might be aided by the great plant at that point.

It would not put our Government into the business of manufacturing fertilizer in competition with the 300 fertilizer establishments of the land, who are engaged in the legitimate business of making and placing on the market over $200,000,000 worth of fertilizers every year. These private fertilizer plants produce over 7,000,000 tons of fertilizer annually. My bill would not turn the colossal nitrate works at Muscle Shoals into a competitive Government machine against those manufacturers, but it would say to the scientists of America, "Go into the business of experimenting with atmospheric nitrogen and other fertilizer commodities and find out how to make them cheaper and better." It would not only instruct the Department of Agriculture to do that, but it would say to the scientists of this and of every other land, "Here we have a great chemical plant at

Muscle Shoals. Come in, gentlemen, and use it. It will not cost you a cent. We give you all of these facilities. We furnish free power. Find out all about nitrates and phosphates and potashes. What we desire is the know how, and we will assist you to find it."

It is well known that in this country there is plenty of insoluble potash. The trouble is to get it into soluble form so that plant life can make use of it. Many experiments were conducted during the war to get soluble potash out of our insoluble materials, but it was found to be more expensive than it was to bring it in from Germany. We have not scratched the surface of the great science of chemistry as yet. Why not use that plant and find out a great many things that may be done by chemistry.

I shall not attempt to go into the matter now, but wish to state that had I been here I would have opposed with all my might the passage of House Concurrent Resolution No. 4, because I think that the plant should be used as a laboratory first and foremost, and then the surplus power should be distributed generally by the Federal Water Power Commission in all the surrounding States. Perhaps that can be done under the amendments presented by the Senator from Arkansas [Mr. CARAWAY] embodied in the measure now before us.

Mr. REED of Missouri. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Missouri?

Mr. RANSDELL. I yield.

Mr. REED of Missouri. Does the Senator think that for the purposes of chemical experimentation the German scientists employed a plant like the one we propose to construct, or did they work the problem out in their small laboratories?

Mr. RANSDELL. I can not answer the question of the Senator from Missouri fully, but——

Mr. REED of Missouri. Does the Senator think we need——

Mr. RANSDELL. Please allow me to answer the question, since it has been asked. I can not state just how they did it, but they did it, and we have not done it. As this plant now exists, we should do our utmost to encourage chemical investigation there, retaining it for its initial purpose, which was the manufacture of munitions in time of war, instead of leasing it.

Mr. REED of Missouri. Does not the Senator think that a $160,000,000 power plant is rather a large adjunct to a chemist's laboratory?

Mr. RANSDELL. The Senator's premise is incorrect. He evidently does not know the facts. There is only one comparatively small portion of the $160,000,000 plant which is in the laboratory. A good deal of it is in the dam, the locks, and the big steam plant, which is more or less connected with the chemical plant. The greater portion of the plant, I will say to the Senator from Missouri, will be used to generate electric power. I do not think the chemical end of it will require very much of the plant.

Mr. REED of Missouri. Then we do not need to go there to conduct our experiments in chemistry.

Mr. RANSDELL. I believe it would be better to use it for experiments as long as we have it and to keep the plant in good condition in order to make munitions in time of war. We could use it far better for that purpose than any other.

Mr. SIMMONS. Mr. President, I think no one in the Senate opposed with more determination than I the passage of the bill presented to the Senate by the senior Senator from Alabama [Mr. UNDERWOOD] during the last Congress. I was intense in my opposition to it. I opposed the passage of the bill upon the opinion which I entertained that its passage would be adverse to one of the greatest interests of the country, that of agriculture. I did not see, when the present concurrent resolution came before the Senate, very much difference between the bill of the senior Senator from Alabama and the resolution which was in charge of the junior Senator from Alabama [Mr. HEFLIN], so far as the effect upon the interests of agriculture was concerned. There is nothing to-day that equals the importance to the farmer of cheap fertilizer. A great many suggestions have been made for the relief of distressed agriculture, but none of the measures, in my estimation, promises so much to the farmers as would a measure which would guarantee to him a substantial cheapening in plant food, upon which he has become almost absolutely dependent, if he is to continue to pursue his occupation with a reasonable guaranty of profit.

I did not oppose either one of these two propositions for any such reason as that I favor Government control. There is no man in this body who is more opposed to Government control in private industry than am I. I do not like to see the Government engaged in the shipping business, but one of the great needs of the United States to-day is a merchant marine. As a result of the World War the Government acquired large control over the shipping business. I am very anxious to see the Government get rid of that control; I am very anxious to see an American merchant marine operated by private capital and industry; but, Mr. President, I do not wish, in getting rid of our present control over the commerce of the seas, to do it in a way that will result, in my opinion, in the disappearance again of the American flag from the ocean. For that reason I have opposed any measure which contemplated the disposal of our Government-owned ships that did not provide adequately against a return to former intolerable conditions.

For the same reason I have felt that, because of peculiar circumstances, the Government has come into possession of this great property at Muscle Shoals, a property if wisely used capable of furnishing not only what the Government may need for the purpose of national defense but what the farmer may need for purposes of fertilizer. The Government having put itself in the position where it could protect itself in case of war, where it could protect its agriculture against excessive prices of an essential ingredient used by the farmer in the production of his crops, I felt that it ought not to part with that property unless it was guaranteed beyond peradventure that the Government's needs and the farmers' needs in this respect would be adequately met by whomsoever should come into possession of that great property.

Mr. President, I desired to say this much, because I did not wish to be put in the position of having taken my attitude with reference to this measure and with reference to our shipping on account of any favorable feeling toward Government ownership in any line of private industry in the United States.

However, while I am on my feet I wish to say one word with reference to the junior Senator from Alabama [Mr. HEFLIN]. I have been associated with him in this body for a long time; I was intimately acquainted with him and had knowledge of his activities in the other branch of Congress for many years. I know the sentiments of his heart; I know the motives that control his actions, and I speak with some degree of knowledge and with absolute confidence when I say that there is no man in public life to-day whose heart is more thoroughly in harmony with the interests of the great agricultural and consuming masses of this country than is the heart of the junior Senator from Alabama.

While I have the views which I have expressed with reference to this measure, I know that the Senator from Alabama, had he shared those views, had he looked at the matter from the standpoint from which I have looked at it, had he believed that what he was doing was in the slightest particular antagonstic to the interests of those whose interests he had so deeply at heart, never would have taken the position that he has taken with reference to this question. I know that he is sincere; I know that he believes that what he has done with respect to this resolution is not antagonistic to agriculture and is not antagonistic to the interests of the consuming masses of the United States. I quite disagree with him in that view, but I know that his action is prompted by an earnest belief that he is serving the interests of the farmer as well as the welfare of his country. In his entire service here the Senator from Alabama [Mr. HEFLIN] has been brave, loyal, and able and has always been absolutely fearless and faithful in his devotion to the farmers and the great body of the American people, according to his conception of their best and highest interests.

Mr. President, I think the resolution as it was adopted by the Senate was very bad legislation; I do not think it is yet a good piece of legislation; but I do believe that the slight amendments that the House of Representatives has put into the resolution improve it immensely. The resolution as it left the Senate did not guarantee to the farmers of the country that they would get cheap fertilizer; it did not guarantee to them that they would get fertilizer at all. The resolution as agreed to by the Senate left it with the lessees to say whether or not they would make fertilizer. It left with them to make it in any way and at a cost which would have been prohibitive and would have made their product utterly useless to the farmer. One of the amendments which have been incorporated in the resolution by the House of Representatives in a measure remedies that situation. It provides that the bill which may be finally prepared and presented to the Senate shall not follow a particular formula prescribed in the resolution, but that, while it must in general terms follow that formula, the bill, if it is to receive the sanction of the Senate and the House of Representatives, must be drafted with this idea—and these are powerful words; they carry immense import; they mean much in the improvement of the resolution—

but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided.

Mr. COUZENS. Mr. President, will the Senator from North Carolina yield to me?

Mr. SIMMONS. I yield to the Senator.

Mr. COUZENS. Does the Senator not understand that the provision he has just read might include the manufacture of some chemical that it was possible to use in fertilizer and yet which might be sold on the market not as fertilizer?

Mr. SIMMONS. I do not deny that the committee might evade and might even resort to a device similar to that suggested by the Senator from Michigan, but I do not assume that they will do so. If they should do so, then the Senate and the House of Representatives would be relieved from any kind of moral obligation to accept the recommendations of the committee or the bill which they might present.

Mr. COUZENS. Mr. President, will the Senator from North Carolina yield further to me?

Mr. SIMMONS. Yes.

Mr. COUZENS. I can understand that this very language might be written into the bid that was accepted by the committee and be incorporated in a bill to be recommended to both Houses, and yet the lessee would be permitted to manufacture any chemical that might be used in fertilizers but in turn be sold commercially on the market not mixed with fertilizer.

Mr. SIMMONS. Mr. President, the language may mean in the mind of the Senator what it does not mean to the average mind and what it does not mean to the legislative mind. To the legislative mind it is a direction to the committee to report a bill which does safeguard the production of nitrates. If the committee should report the identical language, it would not be carrying out the instruction; the instruction is not to report the language but the instruction is to provide in a bill which may be presented ample and sufficient means to carry out the instruction contained in that language. The instruction is to do a particular thing, and that instruction would not be carried out by simply incorporating in any bill which might be presented the language of the amendment adopted by the House.

Mr. COUZENS. Mr. President, will the Senator yield further?

Mr. SIMMONS. Yes.

Mr. COUZENS. The instruction is very indefinite in its provisions; it does not instruct the committee at all that this plant must manufacture chemicals for the exclusive use of fertilizers. It may permit the manufacture of chemicals for use for any other purpose so long as they may be adaptable for fertilizer. The language is not clear at all.

Mr. SIMMONS. The language is not as clear as I should like to have it, but the intent of the language is perfectly clear. The language is that the committee shall recommend "no lease or leases which do not guarantee and safeguard the production of nitrates." It does not stop there, although that is sufficient, I think, for the purposes of this argument——

Mr. COUZENS. Oh, no; I do not think it is.

Mr. SIMMONS. But it goes on to say—

nitrates and other fertilizer ingredients, mixed or unmixed primarily as hereinafter provided.

It refers specifically to the production of "nitrates and other ingredients of fertilizers." The clear import of that, Mr. President, is that the committee shall negotiate no lease which does not provide amply for the production of fertilizers, and which does not so provide without offering opportunity for evasion in the accomplishment of the specific purpose. It will be for the two Houses to determine when the committee reports to them whether it has brought us a bill which carries out the evident and clear purpose and intent of that amendment.

I am not entirely satisfied with the amendment, but I say it does materially improve the resolution. I am not sufficiently satisfied with it to swallow the resolution, Mr. President; but I do feel some gratification that, if the resolution shall be adopted and the committee shall bring us a proposal here that does not satisfactorily provide for what was the intent of Congress when it concurred in this House amendment, we may, without feeling trammeled by any moral obligation whatsoever, summarily reject the proposal.

I greatly feared, under the resolution as it came before the Senate and as it left the Senate, that if the committee presented a proposition to the Senate which technically followed the lines and the general principles laid down in the resolution, the Congress itself would feel morally bound to accept it, but with this language in it, Mr. President, it is perfectly clear to my mind that if the joint committee shall present a proposition which in effect, in the opinion and the judgment of the two Houses of Congress, does not carry out the legislative intent expressed in the amendment, then we may open the whole question and reject without embarrassment the proposal which may be presented.

Mr. President, I did not expect to take as much time as I have taken about this matter, and would not have done so if the Senator had not interrupted me. I rose simply for two purposes, Mr. President: First, to repudiate the idea that I, in opposing this concurrent resolution and the former bill looking to the same end, mean to be put in the position of favoring Government ownership; secondly, to add my tribute to the integrity, to the patriotism, to the ability, and to the fidelity and loyalty of the junior Senator from Alabama [Mr. HEFLIN] to the farmers of the United States.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 1.

The amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the House amendment to Senate amendment numbered 4.

The amendment was agreed to.

The VICE PRESIDENT. The Chair, having had ample time for reflection during the progress of the debate, sees no occasion for delaying the announcement of the appointment of the committee. He appoints on this committee on the part of the Senate the Senator from Nebraska [Mr. NORRIS], the Senator from Alabama [Mr. HEFLIN], and the Senator from Kentucky [Mr. SACKETT].

Mr. NORRIS. Mr. President, I am sure I appreciate the honor which the Chair has conferred upon me in appointing me on this committee, and I desire to return to him my thanks for doing so. He has followed what is the custom, I think; but, Mr. President, everybody knows my position on Muscle Shoals, and knows that I am opposed to leasing this great power to anybody, and that no bid could be made by any private corporation that would meet with my approval. There has been no secret about that.

The Senate has decided to open the matter for lease. So has the House; and while under the precedents of the Senate the Chair ordinarily would appoint me a member of the committee because I happen to be chairman of the Committee on Agriculture and Forestry, at the same time I want to be as fair to my enemies on this matter as I am to my friends.

If this property is to be leased—and the Senate has decided that it will at least try to lease it—the Senate is entitled to have a committee that is favorable to the action it has taken. I am not favorable to it. I could not, without a violation of my conscientious convictions, act favorably upon any bids that might be made. I feel that it is my duty to be fair with those who do not agree with me on this subject, and who at this particular time appear to have won this fight, and I feel that it would not be fair to them for me to undertake to act in a capacity where I would be called upon to do something with which I have no sympathy, and to try to negotiate a lease when I know in advance that no lease can be negotiated that will receive my approval.

I realize also, Mr. President, that the committee appointed has no sympathy with my views, and I am not contending that it should have. I am willing, so far as I am concerned, since this concurrent resolution has passed and became a law as far as the two Houses can make it such, that they should—and I think in all honesty and honor they ought to—have a committee favorable to that action.

Under those circumstances, Mr. President, I do not believe that I can honorably accept a place on this committee. I say this without any feeling whatever against those who are to go on the committee. I do not feel in the least angered or piqued or anything of that kind. I do not want anybody to get that idea. I think I ought to remain off the committee simply because the action of the Senate is adverse to my belief, and I can not support the action of the Senate either in the committee or anywhere else, and when this matter comes back I shall probably oppose any lease or any bill that is drawn with the idea of making a lease.

To my mind, Mr. President, leasing this property after the taxpayers of America have put more than $160,000,000 in it, on the basis of a law which provided originally that the Government should operate it, is no more nor less than a governmental crime; and I say that with perfect respect to those who disagree with me. To my mind we have no honest or honorable right to deal with this property in any other way than as a governmental proposition until we change the law in the manner provided by law. Before we took one dollar of the taxpayers' money at Muscle Shoals we solemnly provided that the works developed there through the taxes of the people should be operated solely by the Government and should not be leased or sold to any private corporation or individual. That law has remained on the statute books ever since 1916; and starting with an appropriation of $20,000,000 we have continued, with

that law on the statute books, to appropriate the taxpayers' money until now we have used of their hard-earned money more than $160,000,000.

I consider that we have been trustees of the people in this matter. It is not fundamentally a question of governmental ownership. We have gone on and we still own all the property paid for from the Public Treasury. It is our property now. If we did not want to do it under these conditions and do it in this way, we ought to have been square enough and fair enough in the original appropriation to provide that when it was completed it should be leased or given away to a power trust or an electric company. We did not do that. We have been holding the purse strings of the Government ever since, reaching into the pocket of Uncle Sam and taking out his hard-earned dollars and building up this property on the theory that when it was built it should be retained by the people of the United States. Now we have passed a concurrent resolution which in my humble judgment violates the trust that we have held from the very beginning; and if it is the last thing I ever do, Mr. President, I will never lend my hand or my voice or my vote to what I believe to be a violation of the sacred trust that in part is in me, not only for the taxpayers who live now, but for unborn generations that shall follow.

Therefore, Mr. President, under all the circumstances I feel that I can not, in duty either to myself or to those who are in favor of this concurrent resolution, accept a place on this joint committee. I therefore most respectfully decline the appointment.

The VICE PRESIDENT. The Chair appreciates the high-mindedness of the Senator from Nebraska, and regrets that he feels he can not serve. The Chair appoints in his place the Senator from Illinois [Mr. DENEEN].

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. WILLIS. Mr. President, I know that a number of Senators are desirous of hearing my colleague [Mr. FESS] on the long and short haul bill. I therefore suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	La Follette	Robinson, Ind.
Bingham	Fletcher	Lenroot	Sackett
Blease	Frazier	McKellar	Sheppard
Bratton	George	McLean	Shipstead
Brookhart	Goff	McNary	Shortridge
Broussard	Gooding	Means	Simmons
Bruce	Harreld	Norris	Smoot
Butler	Harris	Nye	Stephens
Cameron	Harrison	Oddie	Swanson
Capper	Heflin	Overman	Tyson
Caraway	Howell	Phipps	Walsh
Copeland	Johnson	Pine	Warren
Dale	Jones, N. Mex.	Pittman	Watson
Deneen	Jones, Wash.	Ransdell	Wheeler
Edge	Kendrick	Reed, Mo.	Williams
Ferris	King	Robinson, Ark.	Willis

The PRESIDING OFFICER (Mr. BLEASE in the chair). Sixty-four Senators having answered to their names, there is a quorum present.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On March 11, 1926:

S. 2041. An act to provide for the widening of First Street between G Street and Myrtle Street NE., and for other purposes.

On March 12, 1926:

S. 1129. An act authorizing the use for permanent construction at military posts of the proceeds from the sale of surplus War Department real property, and authorizing the sale of certain military reservations, and for other purposes.

THIRD WORLD'S POULTRY CONGRESS (S. DOC. NO. 82)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State recommending legislation by Congress authorizing an appropriation of $20,000, or so much thereof as may be necessary, to enable the participating and installation of a suitable national exhibit at the Third World's Poultry Congress to be held at Ottawa, Canada, in July, 1927, in accordance with a request of the Secretary of Agriculture, a copy of whose letter is attached to the report of the Secretary of State.

I share in the view of the Secretary of Agriculture and the Secretary of State that participation by the United States in this World's Poultry Congress would be in the public interest, and I recommend that the appropriation be authorized and granted.

CALVIN COOLIDGE.

THE WHITE HOUSE, *March 13, 1926.*

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. FESS. Mr. President, when the Senate adjourned yesterday there was some controversy over the phrase "reasonably compensatory," a phrase used in the proviso of the fourth section of the transportation act. I asked the Senator from Iowa [Mr. CUMMINS], one of the coauthors of the bill, whether he considered "reasonably compensatory" identical with "fully compensatory." His reply was that he did. I can not accept that viewpoint, and while I do not doubt that the Senator himself had that in mind when the bill was here under discussion, for anything the Senator would say, of course, would be conclusive with me that he meant what he said, the commission has not taken that view of it, and I can not see how anyone can take that view of it, because if there is to be no difference between "fully compensatory," and "reasonably compensatory," then the proviso in the fourth section is entirely useless, because the fourth section provides that there shall not be a lower rate for a long haul than for a short haul. That is the general statement. Added to it is the proviso that in special cases, after an investigation, there may be allowed a lower rate for a long haul than for a short haul, and it makes the limitation that the rate thus made must be reasonably compensatory. If "reasonably compensatory" means "fully compensatory," the proviso is without any meaning whatever.

I have made a little investigation, going into the rulings of the Interstate Commerce Commission on this matter. In the transportation act of 1920 Congress gave the Interstate Commerce Commission a rule of guidance with respect to long-haul rates which was definitely and statedly designed to confirm and perpetuate the granting of relief from rigid application of the fourth section. Nothing could be clearer than this. If Congress had intended to make the section absolutely rigid, it would have stricken out the proviso altogether.

The Senator from Iowa, joint author of the transportation act of 1920, in explaining the amendment to section 4, said that if he had had his way the bill would have prohibited departures altogether, but that he did not have his way because the committee did not agree with him. Hence, he said, and I quote his language on this floor—

> We have not adopted the positive, rigid, long-haul provision. We still permit * * * some discretion on the part of the Interstate Commerce Commission.

When this legislation, with this amendment to section 4, reached the commission, what construction was that body to place upon it? The new section contained a proviso authorizing departures from the rigid long-and-short-haul clause in their discretion. It prescribed that the lower rate for the longer haul must be compensatory. Did that mean fully compensatory? Not at all; for the phrase in the statute reads "reasonably compensatory."

Taken together with the preservation of some discretion left with the commission to grant relief, what other construction could the commission place upon the phrase than authority to grant relief where the lower rate would be compensatory, but somewhat less than fully compensatory?

If this is not the discretion which Congress voted to continue in the commission, what was it? Under what conceivable circumstances would a railroad apply for the sanction of the commission to charge more for a shorter haul than for a longer haul if each individual rate had to be fully compensatory? There never could be any departures, and applications for them would be useless.

It is true that during the debate on the floor the Senator from Iowa undertook to define the words "fairly compensatory" as the phrase originally stood and he gave notice to all concerned that what was meant by those words was a rate which would earn a return on the investment. It is the duty and the practice of the Interstate Commerce Commission and of the courts, where statutory language is doubtful, to take under consideration, among other things, statements made by members of the legislative body, but here we have a phrase which for many

years has had a definite restricted and technical meaning in the regulation of rates.

The word "compensatory" has always been used interchangeably with the word "remunerative" and has always signified out of pocket costs, plus something more, but less than fully compensatory. In the same debate to which reference has been made, Senator Poindexter declared that he did not know what construction the commission or the courts would give to the words "reasonably compensatory." As an experienced lawyer he knew that the commission would be constrained to consider all the circumstances and conditions involved in the question and the commission really has no choice but to assume that it was expected to use its discretion in granting authority for departures and in doing this to be guided by the phrase "reasonably compensatory" and by its practical knowledge of the traffic conditions which have made it desirable to enact a proviso qualifying the otherwise absolute rigidity of the section.

Mr. President, I take it that "fully compensatory" is the limit above which we can not go, a limitation placed there by the carrier in the interest of the shipper, while "reasonably compensatory" is the limit below which we can not go in the interest of transportation generally.

In order that the lower rate may be in accordance with the expressed policy of the Nation to maintain both rail and water transportation, it must not be low enough to threaten the competitor, if it is a water competitor. It ought to be low enough to meet the competition, and it must not be so low as to put the burden on some other traffic or to jeopardize the provisions of the transportation act, which makes possible an adequate income upon the investment in the business.

Therefore there is a very deep concern that in the lowering of the rate it must be reasonably compensatory; it must not be confiscatory. Therefore a rate that is reasonably compensatory is one which brings in more than the mere out-of-pocket cost. It must not simply satisfy the cost of the traffic; it must provide some profit. Otherwise it is not compensatory at all. It might be compensatory in a sense, it is true, but not in the sense that it would be a profit. Therefore a rate that is fully compensatory is the maximum upward, one that is reasonably compensatory is the minimum downward, and the stretch between them represents the discretion the commission has. That is why the provision of the law is not rigid. That is why section 4 is flexible, and I can not understand how anyone would insist that "reasonably compensatory" is the same as "fully compensatory."

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FESS. I yield.

Mr. LENROOT. May I suggest to the Senator another view, that if the law requires the rate on a long haul to be fully compensatory, and at the same time permits a higher rate than that at the intermediate point, the law would authorize an unreasonably high rate at the intermediate point, beyond the power of Congress to authorize it.

Mr. FESS. I thank the Senator for that statement, which is true.

Mr. PITTMAN. Mr. President——

Mr. FESS. I yield to the Senator from Nevada.

Mr. PITTMAN. As the Senator from Iowa [Mr. CUMMINS] stated yesterday, a rate is either compensatory or confiscatory. He said that a rate that was simply based on what is called out-of-pocket cost, an expression which has grown up in the decisions of the Interstate Commerce Commission, which did not take care of its fair and reasonable share of the expenses of the service, was confiscatory. The Senator from Iowa, it will be remembered, said that the rate should be such as, taking into consideration all costs, overhead, depletion, repairs, and operation, would pay something more than cost. That is not the way the term "out-of-pocket cost" is used by the Interstate Commerce Commission. They hold that if a car is moving empty, if something is put into it, the cost to the company is reduced, and they could make something on the actual haulage by having the car there, but that the total gross receipts from it, compared with the total tonnage of the road, would result, if all freight had been transferred to the same basis, in a loss to the road, that it would be confiscatory, and he held that any court on earth would hold it to be confiscatory if any such rate were fixed along the whole line.

In other words, if the Interstate Commerce Commission had forced the 80-cent rate asked for in the application, not only at the terminal or competitive point but all along the line, it would have been a confiscatory rate, because, as Mr. Esch testified the other day, it would have caused a net loss of revenue of $67,000,000; and Mr. Shoup, of the Southern Pacific, wrote in his celebrated article to extend the rate that they ask at the terminal point to the intermediate points along the line would bankrupt his railroad. The question is, Can the Senator conceive of a rate for a longer distance which, if applied to the shorter distance, would benefit the railroad as a compensatory rate of any kind or character, or can he conceive that if the Interstate Commerce Commission forced that rate on a railroad the Supreme Court would not say it is a confiscatory rate and would bankrupt the railroad? It will be found that the commissioners themselves have discussed the matter, of course. We have Commissioner Hall's testimony here. Will the Senator let me read just a sentence from it?

Mr. FESS. I yield to the Senator, of course.

Mr. PITTMAN. I do not want to intrude upon the Senator, but I think this covers the whole point. Here is what he said:

> We have here a phrase that "a rate which may be more or less water compelled." Is that reasonably compensatory or not? How is that to be interpreted? The common-sense interpretation would seem to be—I am speaking simply for myself now—one that was reasonably compensatory under the circumstances, and one of those circumstances would be that the carrier could not get any more.

When he testified there he was testifying before the United States Senate committee during the last session of Congress on Senate bill 2327, the Gooding bill. That committee had invited a representative of the commission to come and testify before it, and they sent Commissioner Hall, who was the chairman of the commission.

Mr. FESS. Mr. President, I was attempting to differentiate between fully compensatory and reasonably compensatory, the two ideas being different, but in the mind of the Senator from Iowa [Mr. CUMMINS] being the same. As to what is to be included in the element of cost to determine whether it is reasonably compensatory or not, may be a question of dispute. Not everybody agrees on that question with the Senator who has just spoken. In fact, the Interstate Commerce Commission does not agree with the Senator. To illustrate: The railroad has a cost bill that requires the maintenance of the road. That cost bill will be paid whether the road is making money or not. The railroad has a cost bill in the shape of interest paid on its bonds. That cost item will be paid whether the road is making money or losing money. The railroad has an item of cost in taxes. That item is going to be paid whether transportation is successful or unsuccessful from a financial standpoint. The railroads must maintain their offices and headquarters all along the line. They might reduce the overhead along those lines in keeping with the loss of revenue, but there is a portion that must be paid whether the rail business is profitable or otherwise.

Two-thirds of the bulk of the expense of carrying on transportation is composed of fixed charges that will be paid whether the roads are running at a profit or at a loss. The amount of traffic would very little affect that two-thirds. The additional amount of one-third, made up of the quantity of business, is where the profit comes in. That is precisely the point in dispute. Therefore I hold, if a road is hauling empty cars from the East to the West in order to bring back the products of the West to the East, that if in the empty cars going there could be placed something that would more than pay the cost of hauling the empty cars, the profit thereon would help in a degree to pay the interest on the bonds, and it might be sufficient to help to pay the taxes, it might be sufficient to help to pay the maintenance, it might be sufficient to assist in relieving the fixed charges, though it might not assist very much in the real cost of operation that might be called the haulage, and yet in that degree it is a profit to the road; otherwise it is a loss.

Mr. GOODING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. FESS. I yield.

Mr. GOODING. I do not know whether the Senator was in the Chamber yesterday or not when I placed in the RECORD a table showing the empty-car movement in the United States and that the empty-car movement on the transcontinental railroads was less than in any other part of the country. Then, in answer to the Senator's question which he propounded about hauling freight for something less than the full cost, what we are complaining about is that the loss in order to get that freight shall not be made up at the expense of the interior.

Mr. FESS. That loss is not made up at the expense of the interior.

Mr. GOODING. Oh, yes, it is.

Mr. FESS. It is not made up on the interior. The interior pays the normal rate whether the coast pays normal or less than normal, which is not at the expense of the interior.

Mr. GOODING. Why, of course it is.

Mr. FESS. That is the difficulty with the Senator from Idaho. The one change of cost to the interior if the traffic to

the coast is lost to the lines is they will have to meet an additional cost in increased rates.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. FESS. I yield.

Mr. SMOOT. If that statement were true, then if the same rate applied to intermediate territory as to coast territory the railroad companies would make more than the law would justify them in making. Their profits would be unreasonable and could not be sustained under any law we have enacted here. If we had a rate for one-third of the distance and the same rate applied clear through that applied to the short haul, the profits of the railroad companies would be out of all reason. No court would justify it. If the people in the East, on the coast, were treated the same as the intermountain States are treated there would be an uprising, and it would not be a month before the whole situation would be changed. We are perfectly willing to pay the cost of the short haul with a reasonable profit, and even more than a reasonable profit, but we do not want to stand forever paying two and three times the amount that others are paying who are carrying on business in competition with us.

I want to say to the Senator from Ohio that if we are to be forever penalized, if we are to be the hewers of wood and the carriers of water all our lives, we ought to know it. We have been in that condition ever since I have been in public life. As a citizen of one of the intermountain States, with all the penalties placed upon us, with three-quarters of our lands withdrawn from State control, with our States unable to get a single penny of taxation from those lands and yet trying to maintain our State government upon taxes from 25 per cent of the lands in the State, and then to be penalized on everything that we ship in and everything that we ship out, I want to say that it seems to me the time has about come when the conscience of the American people will be stirred to such a point that there will have to be some relief granted. That is all we are trying to obtain through this legislation.

Mr. FESS. Mr. President, the Senator from Utah reminds me of a comment made upon Mr. Gladstone in which it was said that he throws as much force in a nonimportant issue as in the most important issue and unfortunately becomes as enthusiastic on a matter that is without foundation as on one that is with foundation. I am reminded now of what the Senator said the other day, that shocked me, in a colloquy between himself and the Senator from Pennsylvania [Mr. REED]. He made the statement that he could ship from his section of the country to San Francisco and then back through his own State to the East cheaper than he could ship from his own State directly to the East. I have made an investigation——

Mr. SMOOT. Oh, no, Mr. President, I made no such statement as that.

Mr. FESS. We have the RECORD.

Mr. SMOOT. Let the Senator take the RECORD and find it. What I said was that there was a time during which we could ship from New York or the East to San Francisco and back to Salt Lake City at the same rate that we could ship from the East direct to Salt Lake City. That is what I said.

Mr. FESS. The truth about the matter is that the rates from Chicago west are higher than the rates from Utah east, as the blanket regulations will show.

Mr. SMOOT. Certainly; that is the whole principle. Over the same road, hauling the same article, if a shipment goes west we have to pay more than if it were shipped to the West from the East. That is what we are complaining of.

Mr. FESS. And yet the Senator would have us believe that they are doing thus and so under the long-and-short-haul clause of the interstate commerce act when there has been no relief in his particular section by the giving of this preferential rate. There has been an application for it and he anticipates that it is going to be granted, and gives as evidence that it must not be granted what has taken place when it has not been granted.

Mr. SMOOT. If the Senator can point to one single case where relief has been granted, I would like to have him do it. I would like to have the Senator state what the rates are from the East to Wyoming or Utah or any of the Intermountain States, and then state what the rates are over the same road from the East to California and the Pacific coast.

Mr. SMOOT and Mr. GOODING addressed the Chair.

Mr. FESS. One at a time, please.

Mr. GOODING. While the Senator from Ohio is giving the information to the Senator from Utah will he put in the mileage and service given, because the railroads sell their service?

Mr. FESS. I will give the Senator that information.

Mr. GOODING. Very well.

Mr. FESS. The western railroads in making rates to move the products of the intermountain region to the populous markets of the East find it necessary to make low rates that will permit such products to be sold as against the competition of similar commodities reaching those markets from other sources.

I now desire to present a list of illustrative rates of this kind from points in Idaho to eastern cities. There are shown in each instance the rates, distance, and the cents per car-mile which these rates yield the railroads. The average appears to be 19.23 cents per car-mile. Similarly are shown the rates which the transcontinental lines propose to make if granted relief under the long-and-short-haul clause case now pending before the Interstate Commerce Commission, from Chicago and St. Louis territory to ports on the Pacific coast to enable interior-producing territories to reach Pacific-coast markets in competition with similar products coming to the coast by way of the Panama Canal.

The statistics give the same information as to the rates, the distance, and the revenue which will be earned per car-mile, averaging on these commodities mentioned, 22.1 cents per car-mile against 19¼ cents.

I will give the data that the Senator from Idaho has been asking for. The data will show that the railroads are now making lower charges to enable Idaho and Utah to market their products in the East than they propose to make to enable Middle West products to be marketed on the Pacific coast. The comparison is 19¼ cents per car-mile from the intermountain section east as against 22.1 cents per car-mile from Chicago west.

Mr. SMOOT. Mr. President, will the Senator from Ohio state at that point what the figures would be if the freight stopped in the State of Utah instead of going on to the Pacific coast? He will find the rates are quite different. That is what I am complaining of. I am not saying anything about freight which is being shipped east.

Mr. FESS. I will now give the Senator the information for which he is asking as to the situation when freight stops in his section of the country. I will, however, first consider the rates from the intermountain section to the East. On canned goods from Ogden to Chicago, 60,000 pounds minimum, distance 1,478 miles, 33.7 cents; on sugar from Ogden to Chicago, 60,000 pounds minimum, 1,478 miles, 28 cents per car-mile.

Mr. GOODING. I should like to say to the Senator that the figure 33.7 cents on canned goods is the per car-mile earning, and not the rate. The Senator did not state that as to canned goods, and I merely wanted to correct his statement.

Mr. FESS. That is what I meant.

Mr. SMOOT. But that is not what the Senator said, and I was going to make the suggestion.

Mr. FESS. The rate per car-mile is what I am talking about.

Mr. SMOOT. That is quite a different thing from the rate per hundred.

Mr. FESS. I did not say per hundred. The rate is 83 cents per hundred.

Mr. SMOOT. Yes.

Mr. FESS. But the rate per car-mile is 33.7 cents. Gooding, a city in Idaho, distinguished by being named for a great representative in this body, shipping alfalfa meal to Kansas City, has a rate of 49½ cents per hundred; minimum car, 36,000 pounds; distance, 1,289 miles; 13.8 cents per car-mile.

Mr. GOODING. I should like to say to the Senator that the people of Idaho for many years have been trying to get a reasonable rate to the Pacific coast—to Portland, for instance, a haul of about 600 miles. If they had a reasonable rate to that point they would be able to lay their alfalfa meal down in the southern ports and eastern ports for $6 a ton cheaper than they are under the rail rate to the East—not to Kansas City. We are denied the right to ship our alfalfa meal or anything else westbound at all. We are forced over this long haul to the East through a schedule of freight rates which are anywhere from 50 to 100 per cent higher westbound than they are eastbound.

Mr. FESS. Mr. President, the denial comes in this way: The rates on the goods shipped from the interior, the Mississippi Valley, through the Senator's State on to the Pacific coast will be found to be on the same level to-day as the rates from his town; that is the blanket rate about which the Senator complains so much.

Mr. GOODING. Yes.

Mr. FESS. At the same time when the railroads, so that they may meet with a compensatory rate their competitors through the Panama Canal, ask the privilege of having rates to the Pacific coast ports that would be lower than the rates for goods going to Spokane or to the city in Idaho, then the

jobber in a city in the intermountain section of the country who wants to buy in the East and have his commodities unloaded in the intermountain cities so that they may be distributed on the Pacific coast wants a rate on a basis which will enable him to ship such commodities to the Pacific coast, although they could go directly to their port destination without stopping in the interior town as cheaply as they could be landed at that point. That is the rub.

It is the interest of the jobber, who thinks only about the distribution of that which comes from the East on to the West, to want freight stopped there in order that he, rather than the consumer, may become the beneficiary. I do not object to his contention, but I do not propose to allow those making this contention to pull the wool over my eyes to benefit 3,000,000 people at the expense of 70,000,000 people.

Mr. SMOOT. Mr. President, will the Senator yield for just a moment right there?

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. To whom does the Senator from Ohio yield?

Mr. FESS. I yield first to the Senator from Utah.

Mr. SMOOT. The Senator says it is the dealer and the jobber who are interested. Let me call attention to the fact that the dealer and the jobber have nothing to do with it. I can cite instances here by the dozens to prove the accuracy of my statement. Can the Senator tell me why, if I wanted to build a hotel in Salt Lake City and I also wanted to build a hotel in San Francisco, the steel alone entering into the construction of the hotel built in Salt Lake City would cost $30,000 more than the same steel intended to be used in the construction of the hotel at San Francisco, although every ounce of it would have to pass through Salt Lake City in order to reach San Francisco?

Mr. GOODING. Involving a haul of many miles more.

Mr. SMOOT. Involving a haul 890 miles longer.

Mr. GOODING. And over a separate unit of railroad.

Mr. FESS. That is another statement that sounds very much like the one which was made the other day when the colloquy took place between the Senator from Utah and the Senator from Pennsylvania. I can understand why there should be a less charge to the Pacific coast than to interior points, provided it were permitted, but it is not permitted under the law now in operation except upon the approval of the rate-making authority, the Interstate Commerce Commission. Thus far this commission has not permitted anything of that sort.

Mr. SMOOT. I know that it has been permitted. I do not speak of conditions to-day, but I know that it has been permitted.

Mr. FESS. It is not the short-haul clause that permits it, because the short-haul clause specifically states that there shall not be a less amount charged for the longer than for the shorter haul unless the Interstate Commerce Commission shall permit it.

Mr. SMOOT. They permitted it; and not only that——

Mr. FESS. When did they permit it? They have not yet decided upon the petition now pending.

Mr. SMOOT. When we built the hotel to which I have referred it was permitted. I know what I am talking about.

Mr. McLEAN. When was that?

Mr. SMOOT. Ten years ago.

Mr. McLEAN. That was prior to 1917.

Mr. WHEELER. There is an application pending right now on behalf of the railroads asking that that be permitted.

Mr. FESS. There is an application pending, but the Interstate Commerce Commission has not as yet acted upon it. Senators are trying this matter before the Senate in order to prejudice, if possible, and bludgeon the commission to prevent their doing what many think they ought to do.

Mr. WHEELER. Not at all.

Mr. SMOOT. We think they ought to do justice to the intermountain country, while the other "we's" think that the intermountain country ought not to have it.

Mr. GOODING and Mr. McLEAN addressed the Chair.

Mr. FESS. I yield to the Senator from Connecticut.

Mr. McLEAN. Does the Senator from Ohio object to my calling to the stand the principal witness who appeared before the committee in favor of this bill on the proposition just presented by the Senator from Utah?

Mr. FESS. I would not object to anything the Senator might present.

Mr. McLEAN. I think it would be interesting at this point. Mr. James A. Ford, secretary of the Spokane Chamber of Commerce, appeared before the committee when this bill was being considered by the committee, and, I understand, was one of the principal witnesses upon whom the Senator from Idaho relied in favor of the bill.

Mr. GOODING. Yes, he was one of the principal witnesses in favor of the bill.

Mr. McLEAN. Let us see what he has to say about the situation referred to by the Senator from Utah [Mr. SMOOT]—

That condition existed until March 15, 1918. On that date by order of the Interstate Commerce Commission, the railroads ceased all violations westbound.

Mr. GOODING. Mr. President, I want to say to the Senate that there is no question about that statement; that is accepted.

Mr. McLEAN. But it does not seem to be accepted.

Mr. GOODING. It is accepted so far as the transcontinental rates are concerned.

Mr. McLEAN. I am glad if the Senator from Idaho is loyal to his witness.

Mr. WHEELER. We all accept that.

Mr. SMOOT. That statement relates to transcontinental business.

Mr. McLEAN. I think I will read the whole of this extract with the permission of the Senator from Ohio. Mr. Ford goes on to say:

The eastbound violations were yet to be dealt with. The westbound violations, however, were far greater and they came to an end on March 15, 1918, by a decision of the Interstate Commerce Commission finding that as there was no water transportation through the Panama Canal for two very good reasons—

I will stop the quotation there because I think it is important to interpolate that at the time that was due partly to the cessation of the water traffic through the canal.

Mr. SMOOT. It was during the war period.

Mr. McLEAN. Now, I will go on:

I am anxious to make that point very clear that for nearly eight years now we have had terminal rates. We are not trying to disrupt or change any conditions. We are seeking merely to maintain a condition that has existed for eight years.

Following the ironing out of the westbound violations we proceed by gradual degrees to get the eastbound violations ironed out, and the most important of these was wool—

The Senator from Utah will be interested in this—

The rate on baled wool from Boise, Idaho, to Boston, the wool market where the wool gravitates, was $2.14 per hundred pounds, while the rate on baled wool from Portland to Boston was $1.25 per hundred pounds. The Portland haul was 500 miles longer than the Boise haul. The railroads by their system of rates on wool in the West had forced the wool baling and scouring industry into Los Angeles and Portland. It is an actual fact that all during the war, when this Nation was crying for rolling stock and transportation of every facility, our western transcontinental railroads were actually hauling the Utah wool from Salt Lake City to Los Angeles, 800 miles and back over the same rails through Salt Lake City to the Boston market. They were hauling Idaho wool from Pocatello to Portland, 700 miles, and back over the same rails through Pocatello to the Boston market. The only way the Idaho wool grower could get to market was by way of Portland, while the Utah man had Los Angeles for his gateway.

That condition and the discrimination on hides and other commodities that move east has since been remedied. The eastbound wool rates were remedied by a decision of the commission about a year and a half or two years ago, which graded the rates with some regard to distance and opened the Boston market direct to the wool grower of the West.

So that to-day—

Says Mr. Ford, who was the principal witness of the Senator from Idaho before the committee—

we stand on a terminal rate basis, both east and west bound, and once again I want to emphasize that we are merely seeking to maintain this condition which now exists.

Mr. FESS. I am very much obliged to the Senator from Connecticut. He has included in the reading of the testimony some of the utterances that I——

Mr. GOODING. Mr. President——

Mr. FESS. I can not yield now, until at least I finish the sentence—some of the utterances that I had in the manuscript that I intended reading.

I ask unanimous consent to present a comparative table of the rates on goods going east in contrast to those going west, the matter that came up a moment ago.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

Earnings per car per mile on various commodities originating at Idaho and Utah stations destined to various consuming centers

Commodity	Origin	Destination	Rates	Minimum	Distance	Rate per car per mile
Canned goods and canned milk	Ogden	Chicago	$0.83	60,000	1,478	$0.337
Sugar	do	do	.69	60,000	1,478	.28
	do	Kansas City	.68	60,000	1,107	.368
Bullion	do	New York	.625	40,000	2,387	.105
Alfalfa meal	Payette	Kansas City	.56	36,000	1,465	.1376
	Gooding	do	.495	36,000	1,289	.1382
Cement	Ogden	San Francisco	.475	60,000	780	.365
Salt	do	do	.425	50,000	780	.271
Grain:						
Wheat	Payette	Kansas City	.62	60,000	1,465	.254
	Gooding	do	.55	60,000	1,289	.256
Corn	Payette	do	.56	45,000	1,465	.172
	Gooding	do	.495	45,000	1,289	.1728
Flour	Payette	do	.62	80,000	1,465	.3386
	Gooding	do	.55	80,000	1,289	.3413
Livestock:						
Sheep	Payette	Chicago	1.10	23,000	1,846	.137
	Gooding	do	1.055	23,000	1,670	.145
Cattle	Payette	do	.975	26,000	1,846	.137
	Gooding	do	.95	26,000	1,670	.148
Hogs	Payette	do	1.42	17,000	1,846	.131
	Gooding	do	1.345	17,000	1,670	.137
Lumber	Payette	Chicago	.685	44,000	1,846	.163
Wool	do	Boston:				
		In sacks	2.58	24,000	2,857	.218
		In bales	2.19	32,000	2,857	.245
	Gooding	Boston:				
		In sacks	2.46	24,000	2,681	.220
		In bales	2.09	32,000	2,681	.249
Vegetables:						
Potatoes and onions	Payette	Chicago	.83	30,000	1,846	.1333
	Gooding	do	.80	30,000	1,670	.1437
Other vegetables	Payette	do	.95	24,000	1,846	.124
	do	do	.95	20,000	1,846	.1023
	Gooding	do	.93	24,000	1,760	.1336
	do	do	.93	20,000	1,670	.1114
Hay	Payette	Kansas City	.665	24,000	1,465	.1089
	Gooding	do	.585	24,000	1,289	.1089
Fruit	Payette	Chicago	1.28	30,000	1,846	.208
Apples	Gooding	do	1.28	30,000	1,670	.23
Fruits, deciduous	Payette	do	1.50	24,000	1,846	.195
	Gooding	do	1.50	24,000	1,670	.215
Coal	Castle Gate, Clear Creek, Utah.	San Francisco	[1] 6.00	40,000	935	.1280
Ore	Brigham	do	[1] 7.74	30,000	801	.1449
	Promontory, Utah	do	[1] 7.74	30,000	833	.1394
Average						.1923

That is, 19.23 cents per car-mile, a little less than 19¼ cents.

[1] Per ton.

Earnings per car per mile on 12 commodities covered by Fourth Section Application No. 26

Commodity	Origin	Destination	Rate	Minimum	Distance	Rate per car per mile
Ammunition	St. Louis	San Francisco	$1.10	40,000	2,187	$0.201
Cotton piece goods	Chicago	Portland	1.10	40,000	2,248	.196
Iron and steel:						
Bar, band	do	Seattle	.80	80,000	2,185	.293
Plate and sheet	do	Los Angeles	.80	80,000	2,231	.285
Soda alumina sulphate	Chicago	Portland	1.00	50,000	2,248	.223
Paint	St. Louis	San Francisco	1.00	50,000	2,187	.228
Paper	Chicago	Los Angeles	1.00	40,000	2,231	.193
Pipe, wrought iron	do	Portland	1.00	40,000	2,248	.178
Roofing material	do	Seattle	.90	50,000	2,185	.206
Soap	St. Louis	do	1.00	60,000	2,252	.266
Sodium, etc	Chicago	Los Angeles	.75	60,000	2,231	.202
Pressed-steel car sides; structural iron	do	San Francisco	1.00	40,000	2,261	.176
Average						.221

That is, 22⅛ cents per car-mile.

Mr. FESS. Mr. President, I have been a student of the long-and-short-haul problem for years. Long before I saw the Halls of Congress, as a teacher in a university, this matter had come up in the political economy classes. The first suggestion of the right to charge less for a long haul than a short haul seemed to be wholly inequitable, and it rather shocked the uninitiated who had not studied into it, and for that reason I had gone into the matter very carefully. Consequently when it came up as a matter of legislation it was not new with me; but I must state that it never has been my fate to deal with a subject regarding which there seems to be more current misinformation and misunderstanding than this question of the effect of the long-and-short-haul clause and its administration by the Interstate Commerce Commission.

I desire to refer to a colloquy that took place in this Chamber when I was present between the Senator from Pennsylvania [Mr. REED] and the Senator from Utah [Mr. SMOOT]. The Senator from Pennsylvania said:

I would like to ask the Senator from Utah if it is not a fact to-day that it is cheaper to ship sugar from Ogden, Utah, to San Francisco and back through Ogden, Utah, to Chicago, than it is to ship it direct to Chicago over the same route?

Mr. SMOOT. I can not say that the rate is lower, but it is not greater.

Mr. President, I have made an inquiry on this point, and the fact is that the rate on sugar, in carloads, minimum 60,000 pounds, from San Francisco to Chicago (Transcontinental Freight Bureau Tariff, 3–S, I. C. C. 1154) is 91 cents per 100 pounds, and that the rate on sugar from Ogden to Chicago, in carloads, minimum 60,000 pounds (Western Trunk Line Tariff 159–C, I. C. C. A–1448) is 69 cents per 100 pounds. In other words, the rate on sugar, carloads, minimum 60,000 pounds, from Ogden to Chicago is 22 cents per 100 pounds less than from San Francisco. Yet, I think Senators engaging in this debate would have us believe—at least, it appears that way to me—that sugar could be shipped from Ogden to San Francisco, and back through Ogden to Chicago, as cheaply as it could be shipped direct from Ogden to Chicago; for the Senator said:

While I do not say that the rate is lower, I do say it is not greater.

Mr. President, there are some additional facts as to loading different amounts in the car which change the rate somewhat, but that does not change the principle at all.

The Senator from Utah, in reply to the question of the Senator from Pennsylvania, made the following statement. I was present and heard this—

Some time ago I wanted to buy a few carloads of wool and I went to San Francisco to buy it. After purchasing three or four carloads of wool, I went to the railroad and asked them what the rate on wool was. They said it was 75 cents per 100 pounds. They asked "Where do you want to ship it—to Boston or to Philadelphia?" I said "No; I want to ship it to Provo, Utah." They answered, "Oh, well, then the rate is $2.25." Three times the rate to the East and one-third of the distance. That is a case I have had in my own experience.

Mr. SMOOT. Does the Senator deny it?

Mr. FESS. I have gone into that matter to find out how it is possible. If it is possible, it must have occurred years ago.

Mr. SMOOT. It occurred years ago, and I said so.

Mr. FESS. It did not appear in the RECORD that the Senator said that it was some time ago.

Mr. SMOOT. It was when I was buying wool, and I have not bought any wool for a great many years.

Mr. FESS. Let me ask the Senator from Utah if it is not true that no wool is shipped to-day from San Francisco overland to Boston? In other words, has not the Panama Canal route monopolized the entire traffic in wool?

Mr. SMOOT. I should think they would, although I do not know. I have not been in the wool business for years and years; and I want to say to the Senator that every word of that is true.

Mr. FESS. Mr. President, I consulted the Interstate Commerce Commission on the matter. Let me give you the information that they give me.

The present rates on wool——

Mr. SMOOT. I am not talking about the present rates. I am talking about the experience that I had, and I say that what I stated was an absolute fact.

Mr. FESS. We are talking about the situation to-day. That is the way legislation must be conducted.

Mr. SMOOT. I have not shipped any wool for a good many years.

Mr. FESS (reading):

The present rates on wool in grease, compressed in bales, are, from San Francisco to Provo $1.35 per 100 pounds, and to Boston and Philadelphia $2.30 per 100 pounds. We have made no examination of the rate from San Francisco to Provo and eastern points prior to January 1, 1917, but since that time the rates to Provo have been lower than the rates to eastern points.

The following is quoted also from Commissioner Esch's letter, which I have just read. The commissioner says:

May I add in conclusion that Senator REED'S understanding of the situation on the Pacific coast, as indicated by his inquiry of Senator SMOOT, is also erroneous. There is no adjustment of rates which would permit sugar or any other commodity to be shipped from Ogden, Utah, to San Francisco and thence back through Ogden to Chicago at a lower charge than would be produced under the rate from Ogden direct to Chicago. On the contrary, the rates from Ogden and other interior points are generally lower than from San Francisco and in no case are higher than the rates from that point to Chicago. For example, the rate on sugar in carloads, minimum weight 60,000 pounds, from Ogden to Chicago is 69 cents per 100 pounds, and from San Francisco 91 cents per 100 pounds.

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. FESS. I yield to the Senator.

Mr. NORRIS. I should like to ask the Senator now whether he agrees with the principle underlying the rates that he has just enumerated. Are they right?

Mr. FESS. The question of rates, I will say to the Senator, is a matter for experts.

Mr. NORRIS. I understand; and let me explain my question.

Mr. FESS. The Senator may know enough about it to ask the question, but the Senator who has the floor is not a sufficient expert to say whether this particular rate is too high or too low; and it is for that reason that I do not want to bring the subject here to be handled by this group rather than leave it with the commission.

Mr. NORRIS. I did not make my question plain. I do not expect the Senator to give information as to whether this rate or that rate is right. I would not know, and I do not suppose he does.

Mr. FESS. No; I do not know. I thought that was what the Senator wanted.

Mr. NORRIS. No; that was not what I was trying to get at. The principle behind these rates, though, is that the charge for the short haul is not greater than for the long haul in the rates that the Senator has just read. Does he agree that that principle, as applied to these rates, is right?

Mr. FESS. I do not know as applied to these rates. As a general principle, I think that the principle of allowing a less rate for a longer haul than for a short haul to meet competition is sound, if that answers the question.

Mr. NORRIS. Yes; I understand that that is the Senator's position; but if that be his position now, then the commission made a mistake in changing the rates as they used to exist at the time the Senator from Utah had his experience.

Mr. FESS. The commission might have made a change and canceled the original rulings because conditions might have changed sufficiently to justify it.

Mr. NORRIS. I am led to ask my question because the Senator from Utah gave an illustration that happened some time ago where the rate for the short haul was a good deal higher than for the long haul. Now, the Senator is answering that statement of the Senator from Utah by saying that that rate does not exist now; so I take it that the Senator himself agrees with the Senator from Utah that that rate ought not to exist.

Mr. FESS. It does not exist between certain sections and the Pacific coast. It does exist in many interior places.

Mr. NORRIS. Let us take the sections to which these rates apply. The Senator says it does not apply now, and I assume that the Senator is correct. Then the thought at once arises in my mind that the Senator must have agreed with the Senator from Utah that those rates were wrong, because he answers his statement and says: "That is not the case now. The rate for the short haul is not higher than that for the longer haul now."

Mr. FESS. I appreciate fully the irony of the Senator from Nebraska.

Mr. NORRIS. No, no; I want to disabuse the Senator's mind. There is not any irony in it. I am seeking for information entirely. I am asking my question in the best of faith; but I could not help reaching that conclusion. That is the Senator's answer to the argument of the Senator from Utah; and I assume from that that the Senator himself goes on the theory that the condition narrated by the Senator from Utah is no reason for the enactment of this legislation, because it does not exist now.

Perhaps I can make my question plainer.

Mr. FESS. Mr. President, Edmund Burke once said that no lawyer ever became a great lawyer who dealt merely in technicalities. I think it is beneath the dignity of a discussion like this to endeavor to change the course of a discussion that is trying to deal with fundamentals by narrating some particular incident of which I may not have any information whatever, and which does not apply to the question at issue.

Mr. NORRIS. But the Senator is dealing with that kind of an incident. He is taking up the Senator's statements, and I am confining my question to them.

Mr. FESS. I am dealing with the general question of the commission's discretion under special cases to allow a less rate for a longer haul than for a short haul, which the pending proposal forbids.

Mr. NORRIS. Exactly; but the Senator himself has taken this incident to which the Senator from Utah referred. He reads from the RECORD the statement of the Senator, and he points out a certain state of facts, I take it as an answer to it; and I am not saying that it is not an answer. I am not criticizing the Senator's argument; but he points out that that state of affairs does not exist now. Are we to assume from that that the Senator thinks it was wrong? And does not the Gooding bill, which we have now before us, put into law something that would make it impossible to allow that kind of a rate to exist?

Mr. FESS. Mr. President, I do not yield any further on this matter. It is an amusing exercise of mental gymnastics to see the Senator from Nebraska going around in a circumlocution and ultimately saying that "the Senator now says that the position is wrong." The Senator who has the floor has said nothing of the kind. The Senator has stated the facts in contravention of the statement made by the Senator from Utah the other day, without any comment as to whether this particular thing is right or wrong. I am dealing with the proposal to transfer the rate-making power from a commission of experts to the floor of Congress.

Mr. McLEAN and Mr. GOODING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield; and if so, to whom?

Mr. FESS. I yield to the Senator from Connecticut.

Mr. McLEAN. With the Senator's permission, I will call to the stand the Senator from Idaho [Mr. GOODING], who, I think, will answer the question propounded by the Senator from Nebraska: "Assuming that existing conditions are satisfactory, will the enactment of this law perpetuate those conditions?" I think that was, in substance, the question of the Senator from Nebraska.

On page 166 there is a colloquy between Mr. Farrar, who was a witness in opposition to the bill, and the Senator from Idaho:

Mr. FARRAR. May I make one suggestion in conclusion? I would like to address this particularly to Senator GOODING. The ills which we have, or which we think we do have, do not at the present time relate to any fourth-section departures. We have none on transcontinental business.

Senator GOODING. Are you speaking now of your industry?

Mr. FARRAR. I am speaking of my industry and the whole of our section of the country and surrounding it. There are no fourth-section departures on transcontinental roads at the present time. So if we are suffering we are suffering from something other than the long and short haul.

Senator GOODING. But we had a commissioner before this committee this morning who showed very conclusively that the majority of the commission was in favor of those violations. I am not going to argue the point, because I do not think we can develop in the interior as long as there is even danger of violations, because I do not think you can have capital to invest there.

Senator CUMMINS. Well, I suggested what I did not because I am not in favor of this bill, because I am.

Senator GOODING. I understand.

Senator CUMMINS. But because, in my judgment, we will not have solved the problem with the passage of this bill.

Senator GOODING. I agree with you there.

Mr. GOODING. Will the Senator yield?

Mr. FESS. I yield.

Mr. GOODING. Not all the problems of transportation. But it would solve them as far as the long and short haul is concerned.

Mr. McLEAN. The Senator did not say so.

Mr. GOODING. That is what I meant, of course, and there is no doubt that that is my position. Senators do not question it, and I do not think the Senator from Connecticut questions that that is my position, that this bill will solve the long-and-short-haul problem.

Mr. McLEAN. Well——

Mr. GOODING. Wait a minute. I want to thank the Senator for being kind enough to place in the RECORD the statement made by Mr. Ford, which shows conclusively what the interior territory of the West has been suffering from and what we have been fighting against, just exactly as was stated by the Senator from Utah. We have been fighting those things for years. There was a time when they actually hauled all the freight to the Pacific coast and brought it back again when they performed that service.

Mr. SMOOT. They did it many a time.

Mr. GOODING. It has been a battle for 40 years and we have been winning our fight right along, but all through the interior there are hundreds of violations. I want to thank the Senator, because I want to know his position, and I have it when he says:

You are trying to bludgeon the commission and drive them to do something, or not to do something, that we believed they ought not to do—

and at the same time these violations on 47 different commodities are under consideration. So I take it for granted that the Senator from Ohio believes that those violations ought to be granted the transcontinental railroads. Am I correct?

Mr. FESS. I am not on the witness stand, but I will satisfy the Senator nevertheless. Each of those 47 petitions now before the Interstate Commerce Commission is to be considered on its own bottom, and I believe that the ability of the commission, knowing the transportation problem better than any Member on the Senate floor, although they do not talk nearly so much about it, is such that they are better qualified to grant the relief or to deny it than any of us, and if they see fit to do it, I assume it will be justified, and I should not, with my limited data or information on the matter, resist the commission's findings. That is my answer to the Senator from Idaho.

I must not allow this to run along this way, Mr. President. I do not want to be in the slightest degree indelicate in the matter, or seem to be without courtesy to my colleagues, but we see where this thing will go if I do not take the bull by the horns. I think I had better make my speech now, and let other Senators make their in this own time.

Mr. McLEAN. Mr. President, will the Senator yield to me for just one quotation?

Mr. FESS. Yes.

Mr. McLEAN. I think this is very interesting. I would like to know what the proponents of this bill are after, and what they do want. The Senator from Idaho has explained the position which he took before the committee, to the effect that this bill would not accomplish the purpose which he seeks.

Mr. GOODING. Oh, now, Mr. President——

Mr. McLEAN. Or would accomplish it.

Mr. GOODING. I do not want to be misunderstood or misquoted.

Mr. FESS. I yield to the Senator from Idaho.

Mr. McLEAN. It would accomplish the purpose which he seeks.

Mr. GOODING. Yes. Let us have an understanding.

Mr. McLEAN. The Senator from Iowa I have already quoted, but I will requote him:

Senator CUMMINS. But because, in my judgment, we will not have solved the problem with the passage of this bill.

Now, I want to ask the Senator from Iowa a question. He stated yesterday that he was in favor of the bill and, if I understood him correctly, it was because the Interstate Commerce Commission had given to the term "reasonably compensatory" a construction which he did not believe was right, not the construction which he gives or which he believes the commission should give. I want to ask the Senator from Iowa, if the term were given the construction which he approves, would he be in favor of permitting a departure which would in any instance permit a lower charge for a long haul than for a short haul?

Mr. FESS. I beg the Senator's pardon. I do not want to enter into that colloquy at this time.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. CUMMINS. I would be quite willing to reply.

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Montana?

Mr. FESS. If I yield, I will have to yield to the Senator from Iowa.

Mr. McLEAN. I would like to have the Senator from Ohio give the Senator from Iowa an opportunity to answer the question, because I think it is very important. The question is, if under any condition the Senator from Iowa would permit these departures.

The PRESIDING OFFICER. To whom does the Senator yield?

Mr. FESS. I yield to the Senator from Iowa.

Mr. CUMMINS. I will not trespass upon the Senator's time to fully answer the question propounded by the Senator from Connecticut, but it is perfectly obvious that the bill will not reach all the cases in which more is charged for a short haul than for a long haul. This applies only to the influence of water competition. There are thousands of instances in which the charge for the long haul is less, indeed, than the charge for the short haul, that will not be touched by this bill. It can not, in the very nature of things, touch them. That is the reason I said the question would not be settled by the passage of this bill.

Mr. McLEAN. The Senator has not answered my question. We are assuming that the competition is between the water carrier and the land carrier.

Mr. CUMMINS. But that is not true. Very much of the competition is between land carriers.

Mr. McLEAN. I know, but this bill covers that character of competition.

Mr. CUMMINS. Between water and land; yes.

Mr. McLEAN. The question I asked the Senator was this: If the Interstate Commerce Commission gave to the term which he put in the bill a proper construction, would he in any case permit a lower charge for a longer haul, where there is water competition?

Mr. CUMMINS. No; if I understand the question correctly.

Mr. McLEAN. I do not see any distinction in principle between the competition on land and on water.

Mr. FESS. I think the Senator from Iowa answered the question in accordance with his statement last night.

Mr. WHEELER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Montana?

Mr. FESS. Yes; for a question.

The PRESIDING OFFICER. The Senator yields for a question only.

Mr. WHEELER. The Senator said that he felt that it should be left to the Interstate Commerce Commission to deal with each particular case. We are about to vote upon the confirmation of a commissioner to go upon the Interstate Commerce Commission, a man who has been a director of two railroads and who is recommended for appointment by another man who is a director in a large number of railroads. He is going upon that commission, according to his own statement, with preconceived ideas with reference to this long-and-short-haul problem, because he is opposed to this bill and is in favor of giving fourth-section violations.

That is one of the reasons we are opposing him. So I submit, under those circumstances should we leave the question to a commission which already has its mind made up in advance with reference to these matters?

Mr. FESS. Mr. President, I have never considered ability and experience as disqualifications for appointment to office. The more a man knows and the more capable he is, no matter whether I agree with him in all of his findings or not, the better qualified I think he is for a position, and that fact is not sufficient ground for rejection, in my opinion, when any position of such honor and trust as the one referred to is tendered a man.

Mr. WHEELER. The Senator does not answer my question.

The PRESIDING OFFICER. Does the Senator further yield?

Mr. FESS. Now I think I must insist upon using some of my own time.

We might as well come directly to the real situation now at issue. I will refer to some incidents that will be concrete, which will give us a little more clarified view of the problem. There are connecting lines from the Twin Cities to Butte, Mont., representing the Milwaukee, and the Northern Pacific, and with a branch line, the Great Northern. Two of the roads cover about the same distance. The other one travels a much wider field, and therefore has a much longer haul. If we refuse to allow the Great Northern to make the same rate for traffic going out of the Twin Cities to Butte that is made by its two competitors, with the shorter haul, then the Great Northern must abandon that field entirely, to injury to itself and detriment to the public, because the railroads are about the same in efficiency and there is not a sufficient advantage to one in service above the other that would justify going over the longer haul and paying a higher rate. But in case the equal rate is allowed to Butte on condition that the Great Northern is required to place the same or a lower rate upon intermediary points that it places upon its destination, then the road can not operate profitably. The only basis, it would appear, on which the Great Northern could have any of the traffic going from and to these points, would be relief under the fourth section. If and when this relief is granted by allowing it to charge the competitor's rate to one destination, but a higher rate to a nearer point, I would like to know how it is an injury to the interior point which pays the same rate whether relief is granted or denied. I do not see the philosophy and I can not understand the logic of that conclusion.

I was looking over a case that came to our attention recently in the hearings. The town of Aberdeen, in Washington, is quite a little distance from Portland, Oreg. But Aberdeen is five times farther from San Francisco than it is from Portland. San Francisco and Aberdeen are connected by water route, and therefore water transportation between the two points is a competitor of rail connecting Aberdeen with Portland, although one-fifth of the distance. The rate over the water route is cheaper than the rate over the rail; and if the carrier out of Portland wishes to get any of the trade to Aberdeen, he must meet the competitive rates of the water route; but if the fourth-section relief is denied, then whatever be the rate to Aberdeen from Portland, it must be equal to or lower to Centralia, a shorter distance from Portland.

I would like to know where the injury comes to Centralia if the shipper is given from Portland to Aberdeen a lower rate to meet the San Francisco competitor but does not give the reduction to Centralia. How can lowering the rate to Aberdeen injure Centralia by leaving the rate as it has always been? I do not see the logic of it. I can multiply these cases by the hundred.

Let me illustrate with a different item which came out in the hearings recently.

In Wisconsin there is a great paper manufactory. This is a classic illustration that has often been quoted. The paper manufactory used to supply the market in New Orleans. New Orleans is an ocean port. The Norway paper mills can supply New Orleans. It was developed that the Norway manufactory could deliver print paper in the city of New Orleans cheaper than the Wisconsin manufacturer could lay it down there over the railroad. The Wisconsin manufacturer, feeling the keen competition of the foreign manufacturer, appealed to the Interstate Commerce Commission for fourth-section relief. The Interstate Commerce Commission, whether wisely or unwisely, refused it, and made the statement as final that if they made a rate to New Orleans the intermediate rate could not be higher. What is the consequence? The Norway shipper is supplying the New Orleans paper requirements at the expense of the Wisconsin shipper, who has been compelled to withdraw from the New Orleans market and to depend wholly upon the interior points, giving a foreign producer the monopoly as against an American industry. I want to know where the injury would have been to the interior points by continuing the normal rates as they were and are and making a lower rail rate to New Orleans to meet the water rate from the foreign manufacturer? What injury is there in giving New Orleans two channels, one of which passes through the interior points? I think there is no ground that is logical for such a denial, and yet the Interstate Commerce Commission denied it. That will be pleasing to the Senators from the intermountain country, although it seems to me that the privilege ought to have been granted.

From the State of Iowa there are shipped great quantities of canned goods. Canned goods are among the chief products of Iowa. Iowa is in competition with Maine in the same business. Maine ships through the canal to San Francisco, Seattle, and Portland. Maine ships at a lower rate by water than Iowa can ship over rail to any of those points. What is the outcome?

Without the fourth-section relief, which has not been granted to Iowa, the Iowa canneries are entirely out of the market on the Pacific seaboard and confine their sales to interior points. I hold that it would be no injury to any town or country through which the coast traffic passes to make a rate that would enable the Iowa canneries to find a market on the Pacific coast, but it would be an advantage to the interior points, as well as a distinct advantage to Iowa and the seaboard population.

These are only a few of the evidences that came to us through the hearings that had stretched over the years in the consideration of the question. I want to take up another item. Let us take the eastern section of the country. Virginia and West Virginia can ship coal to Hampton Roads by rail, load it on the boat and land it in Boston for about $4.25 per long ton. The Clearfield mines, in western Pennsylvania, about as rich as any mines in the country, are not on a water line. They must ship over an all-rail route, and if they get any of their coal from the Clearfield district to Boston they will have to meet the competition by the rail-water route from Virginia and West Virginia by way of Hampton Roads and the sea. The rates are about $4.85 per long ton from the Clearfield district. That immediately shuts off from the Boston market the Clearfield shipper, or the rail shipper, because he can not ship at such an additional cost when the Boston consumer can get his coal at so much less cost. Therefore he asked that he be given fourth-section relief in order that he could get a rate from the Clearfield mines to Boston equal to the rail-and-water rate through Hampton Roads. He said:

> If I have to reduce my rate to Springfield and other inland towns where there is no water transportation to make it equal to or less than the rate to Boston, it will be impossible for me to carry the business profitably and we will have to go out of the Boston market entirely.

Let me ask where is the injury to the interior point? There is a charge per long ton of $4.25 from the Clearfield mine to Boston and a greater charge from the Clearfield mine to Springfield, which would be 80 miles this side of Boston. How is Springfield injured? I do not understand such logic, and yet it is said that it is taken off of the consumer in Boston and put on the consumer in Springfield. Where is the logic in such a statement?

Mr. GOODING. Mr. President——

Mr. FESS. How would the Springfield consumer get his coal any cheaper unless he were on a competitive line with the ocean? He is not on the ocean. We can not move the ocean to him and we can not move the city of Springfield to the ocean. It is a question whether it would not be wise for the general public that we grant the fourth-section relief and allow Boston to buy from two sources rather than limiting it to one.

I now yield to the Senator from Idaho.

Mr. GOODING. The people of the interior make up the freight rate as between the long and the short haul.

Mr. FESS. O Mr. President, I have heard that until it is nauseating.

Mr. GOODING. Will the Senator yield a moment and allow me to answer his question?

Mr. FESS. Yes; I yield.

Mr. GOODING. I have a letter from a city in Connecticut in which it is said that they have saved $176,000 a year through violations of the fourth section. If they were saving $176,000 annually through such violations, somebody in the interior in the smaller towns that do not have water transportation paid more for the coal which they burned to keep them warm than the people in this city in Connecticut paid. Is that right?

Mr. FESS. That shows the peculiar attitude of reasoning of the Senator from Idaho. Because Boston is favored in location by being a port on the sea and can use two channels of competitive commerce and therefore get her coal for $4.25 freight, where Springfield pays $4.80, he says Boston steals from Springfield. Where does the Senator get any such idea as that?

Mr. GOODING. It is easy to understand.

Mr. WHEELER. Mr. President, I can give the Senator an illustration of that principle.

Mr. FESS. I yield to the Senator from Montana.

Mr. WHEELER. The railroads made application for a fourth-section violation with reference to steel. They were charging $1.20, and they wanted to charge the coast $1. They represented that they could not reduce the rate to the interior country to $1, the same as they were giving the coast. The Interstate Commerce Commission denied them fourth-section relief. After the denial of that relief under the fourth section they reduced the rate on steel from Chicago to all of the intermountain points and clear through to the coast. When they did that, the Seattle and Portland Chambers of Commerce came in and protested against their giving the same rate to the interior points that they were giving to the coast points. Does not that prove the point?

Mr. FESS. I have not examined that situation, and I do not know why they would protest.

Mr. WHEELER. They did protest. That is the fact of the matter.

Mr. FESS. The only thing I could see that might be the source of their protest would be that they would prefer to have two lines rather than only one.

Mr. WHEELER. But why should they protest against the interior getting as cheap rates? In Montana we are some 800 to 1,000 miles from the coast. They protested against Billings, which is over 1,000 miles from the Pacific Coast, getting as cheap a rate as they were getting. Why? It was because they wanted to protect their jobbers.

Mr. FESS. Let me go into the particular phase of the discussion with reference to the interior having to bear the burdens of those who live on the coast. That is the idea that has been bandied from one to another until a lot of people have evidently come to believe that it is true.

Mr. GOODING. Will the Senator yield? I wonder if I may make clear to the Senator's vision the position of the interior so that he will not be laboring under a misapprehension.

Mr. FESS. I think the Senator with four hours' speech yesterday had ample time to clarify all of his points.

Mr. GOODING. I am sure the Senator does not want to labor under a misunderstanding.

Mr. FESS. If I could not get it yesterday in four hours I could not get it now in five minutes.

Mr. GOODING. I can give it to the Senator in a minute, if he will listen.

Mr. FESS. Very well; I will listen.

Mr. GOODING. The point was well brought out by the Senator from Montana [Mr. WHEELER] that the Pacific coast objected to the interior having the same freight rates. What the interior is fighting for is that we simply want the rates to the interior to be such to serve our own people in order that we may maintain our jobbing houses there.

Mr. FESS. Oh, I understand that. The Senator discloses the source of the agitation, well understood by those who have studied the subject.

Mr. GOODING. We want to maintain our manufacturing institutions. If the Senator will look at it in that light, he will find that we are just as much American citizens as the people on the Pacific coast and entitled to the same rates, the same privileges, and the same opportunities. He can catch the vision very clearly when he knows that the people on the Pacific coast say to the people of the interior, "You shall not have the same freight rates that we have. You shall pay more for a lesser service than we have here on the coast." That is all there is to the whole subject. It is simple.

Mr. FESS. That is only repetition of what I have heard half a dozen times. There is nothing new in the Senator's statement.

Mr. GOODING. It is a simple proposition, but the Senator can not understand it even with all the repetition.

Mr. FESS. That may be true. I may be very stupid. I will admit that I am. If I am not, I may be stolid. Speaking of the great relief that is being sought for all the transcontinental freight from seaboard to seaboard in competition with the water rate, a few observations ought to be made.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Will the Senator from Ohio permit an interruption by the Senator from Montana?

Mr. FESS. I yield.

Mr. WALSH. The illustration the Senator gave concerning the situation in Boston with reference to sources of coal supply interests me, and particularly his statement about Boston being upon the ocean, that the ocean could not be moved over to Springfield or Hartford, that nature favors Boston in her location and she ought to have the benefit of that situation, and so she ought to have two sources of supply for coal. But does it not occur to the Senator that if a coal mine is located naturally in a place where it has an advantage over another coal mine that is located disadvantageously, the same reasoning ought to apply? Apparently the coal mines that can get their products out over the Rodgers route to Hampton Roads are fortunately located. Many other sources of supply are fortunately located. The Senator apparently wants to take away from those coal mines the advantage which nature gave them with respect to transportation and put them upon the same footing as some other coal mine that is not so fortunately situated.

Mr. FESS. Oh, no.

Mr. WALSH. But he wants to give Boston the advantage that nature gave it. Why does not the rule work both ways?

Mr. FESS. The Senator is misconstruing. I am not wanting to give advantage to one coal mine over another. I am simply wanting to give the two sections the same outlet at the same point. We do not take it away from one when we give it to the other.

Mr. WALSH. But the Senator wants to put the Pennsylvania coal mine, which is located disadvantageously with respect to transportation in exactly the same situation as the West Virginia coal mine that is located fortunately with reference to transportation. I do not object to that; I am not finding fault with that.

Mr. FESS. I take nothing from the West Virginia mine and give it to the Clearfield mine. I am simply proposing to open the same port to both of them.

Mr. WALSH. Exactly; and the Senator is giving to Boston what he says is a natural advantage by reason of location over Springfield, but he will not give to the West Virginia mine the natural advantage over the Pennsylvania mine that nature gave it.

Mr. FESS. I take nothing from the West Virginia mine. I am simply giving the privilege of an outlet to the Clearfield mine. I propose to benefit both mines. I take away nothing from any mine and I do not propose to injure the West Virginia mine.

Mr. WALSH. I am talking about taking away or giving.

Mr. FESS. We can not very well give without taking away.

Mr. WALSH. The Senator says that Boston is favorably located by nature, which of course is true. It is so situated that it can get its supplies either by rail or by water. So it is fortunately situated by nature as against Springfield, and that natural advantage ought to be preserved, the Senator says, and legislation ought not to take it away. So a West Virginia mine is naturally so located as to have an advantage over the Pennsylvania mine, but the Senator will not apply that rule to that mine.

Mr. FESS. The Senator from Montana falls into the same error that others have fallen into. We are taking nothing away from Springfield.

Mr. WHEELER. You are taking away their natural advantage of being nearer, are you not?

Mr. FESS. They have no natural advantage of seaport to be taken away.

Mr. WHEELER. You are taking away from Butte her natural advantage.

Mr. FESS. That is simply the use of words without meaning. We take nothing away from Springfield. Springfield would not get freight a cent cheaper if there was not any Boston. She would pay the same amount, and, I fear, she would pay more. So instead of taking it away from the inter-

mountain country we are making it possible for them to recoup. That is the point I want to discuss at this time.

Speaking of these transcontinental roads, it is stated by the experts that water transportation compared with land or rail transportation is about one to six in expense, or that freight can be carried on water 6 miles at the same expense that it would require to carry it 1 mile over rail. In other words, the cost of transporting freight by water from the Atlantic seaboard to the Pacific seaboard, 6,000 miles, would be similar to carrying overland a thousand miles. So that, so far as freight rates are concerned, San Francisco is as near New York by water as Chicago is near New York by rail; and yet there has been no desire to make a rate between the Atlantic seaboard and the Pacific seaboard at such a low figure as to injure the Panama Canal. On the other hand, people who are served by both rail and water are better off than if served by only one, and wherever it is possible to make the competition such that both channels of transportation may be utilized it is better for the public welfare that it should be done.

To-day I am told by the experts that 90 per cent of the seaboard traffic from the Atlantic coast to the Pacific coast is carried over water, and that only 10 per cent is carried over rails. Only that portion of it in which time is an element, where speed is desired in order to make quick delivery is transported by rail; all the remainder of the traffic goes by water. I am finding no fault with that. I am for building up and maintaining the water routes. I have always been for that. I am also for maintaining the integrity of American railway business, for we can not live very long without it. For that reason I want to maintain together with the water route also the rail route.

Mr. President, without entering into the sentiment that is involved, I desire to say that this country is a continental country. The people do not all live on the seaboard. The large mass of population lives inland. This being a continental country, it must be served by continental transportation lines. That is the very genius of American life. Transportation is our second greatest industry, agriculture being the first. I want to maintain an uninterrupted transcontinental system overland, if for no other reason than for national-defense purposes, in case we might again at some time have a difficulty with some foreign country. Therefore I am very much averse to making it possible for one system of competitive transportation to drive out of existence the other, and I am just as anxious for the maintenance of water transportation for its proper field as I am for the maintenance of land transportation for its service.

I want now to call the attention of those living in the intermountain section to the policy they are here indorsing. To say nothing about the millions who live outside of the intermountain region, I think that it is not for the best interest of the people who live in the intermountain country. What is it that the intermountain citizen wants? After he produces his products, after he raises his crops, he wants a market; and the present situation in the Northwest, suffering from a failure to rehabilitate agriculture, is emphasizing this very problem.

The margin between what a people consume and what they produce is the element of profit. Therefore, those living in the intermountain section are not half so much concerned about the freight on the inbound traffic as they are about the freight on the outbound traffic. Inbound traffic represents consumption, while outbound traffic represents production, and the difference between consumption production in a degree measures the prosperity of the community. If the intermountain section does not produce as much as it consumes it will die. If the intermountain section produces more than it consumes, to that degree it is prosperous. Therefore, the interest that those living in the intermountain section should have is, "How much can we produce and what is the best rate on the outbound traffic of our production"? They should not be concerned so greatly about "how much do we consume and how much do we have to pay on the inbound traffic"? With that in view let me give one or two examples.

Mr. WHEELER. Mr. President, will the Senator yield to a question?

Mr. FESS. I beg the Senator's pardon, but I have a thought which I wish to present to the Senate, so I do not want to be interrupted at this point.

Mr. WHEELER. Very well.

Mr. FESS. I wish to give the Senator one or two examples. The intermountain region is distinctively productive, more so than it is consuming. While it does not produce so much of what it consumes, it does produce an immense amount that other sections of the world consume. Therefore it is very much concerned about the freight situation and the traffic that goes out upon which it makes its profit.

In the Northwest there are great lumber interests. Listening to my friend from Idaho the other day and his reference to the lumber interest, I feared that he might have some prejudice in the matter; but nevertheless we had before our committee a representative of that industry, and he gave information that was not only rather voluminous but most illuminating. He said that the company in which he was interested had an investment of half a billion dollars; that it made at least $100,000,000 worth of lumber, which was shipped to other portions of the country every year; that its pay roll amounted to $30,000,000 plus; that its freight charges were $25,000,000 plus; that the amount paid by it for raw material shipped in from other sections to make its business a going concern amounted to another $30,000,000. That makes a very prominent, significant source of production in that great section.

Mr. GOODING. Mr. President, I wonder if the Senator will yield to me for just one remark which I wish to make? If so, I want to assure the Senator, my own people, and the world that I am not prejudiced against the great lumber industry of Idaho. In that State we have the greatest white pine forest in America. We are very proud of our lumber industry, and we encourage it in every way we can.

Mr. FESS. I am very much obliged to the Senator, and I think he ought entertain exactly those views.

Mr. WHEELER. Mr. President, may I interrupt the Senator to say that the lumber interests in my State are in favor of this bill?

Mr. FESS. I am surprised that the lumber interests of the Senator's State do not know what is to their interest.

Mr. WHEELER. If Senators would leave the interests of those living in the Northwest to be taken care of by the representatives from that section, we would get along fine.

Mr. GOODING. Mr. President, I should like to say that nearly half of the lumber interests in Idaho are for this bill. I want that to go with the statement in regard to the lumber interests of Montana.

Mr. WALSH. I wish to assure the Senator that the lumbermen in Montana are pretty sagacious gentlemen.

Mr. FESS. Mr. President, in the month of July, I think it was, of last year the testimony showed that there were seventeen thousand plus cars that went from the East to the West. Of the 17,000, six thousand plus were loaded. That means 11,000 of the cars in that month traveled from the East to the West empty. Why? In order that those who live in the West can find empty cars in which to ship back their products to the East. To carry empty cars across the continent is an enormously expensive operation; and yet here is nearly 75 per cent of the haulage of freight cars to serve the intermountain country and the other sections traveling at a hopeless expense, without a dollar of income.

What does that mean? The representative before the committee said:

> Our difficult problem is to get empty cars.

Why is that? Because it is expensive for the railroads to ship across the continent empty cars. If, on the other hand, the railroads were permitted to make a rate in Seattle, Portland, San Francisco, and other coast ports to meet the water competition, and thus carry some freight across the intermountain country to the coast, those empty cars would not be a dead loss, but they would be a source of profit. It would not hurt anybody, because they would have to be loaded at a rate that is reasonably compensatory, or they could not be loaded at all.

I insist that if the railroads of the country are compelled to carry three-fourths of their cars across the continent empty—that is not a general rule; that is only one month that was given us—then the loss of revenue to the railroads must be made up by the shipper; and if the people in the intermountain country, whose chief interest is in the export or outbound traffic, would agree to having these empty cars loaded, even though at a less rate than is paid at Spokane, the amount that the railroads now must make up would not be necessary, because the rate would be more than self-supporting. A denial of this privilege does not only prevent any rate reduction but is the basis of the demand for rate increase.

I hold here, as a student of this problem, that the representatives of the intermountain people are not representing the best interests of their own people by insisting upon taking away this flexible feature from the Interstate Commerce Commission. This, to me, is the determining factor of the whole situation.

I shall vote against any effort to break down the Interstate Commerce Commission. I certainly shall not give any sort of support to taking away from the Interstate Commerce Commission the power to deal with this technical question, and breaking up the rate structure about which Senators know so

little, and doing it ourselves here in this political whirlpool, rather than leaving the matter with a commission of experts whose whole life ought to qualify them for doing the just thing.

Mr. WALSH. Mr. President——

Mr. FESS. I yield to the Senator from Montana.

Mr. WALSH. I desire to inquire of the Senator if any representative from the intermountain country appeared before the committee in opposition to this measure?

Mr. FESS. Several, as I remember.

Mr. WALSH. Will the Senator tell us who they were?

Mr. McLEAN. The Colorado Fuel & Iron Co.

Mr. SMOOT. That is owned in the East.

Mr. WALSH. The Colorado Fuel & Iron Co.?

Mr. McLEAN. Yes.

Mr. WALSH. Why, that is a subsidiary of the Steel Trust.

Mr. McLEAN. Does it make any difference where they are owned?

Mr. WALSH. I should think so.

Mr. McLEAN. It may be that they are owned by the United States Steel Corporation. If so, this is the first time I have ever heard of it; but I think their interests are similar to those of the State of Idaho and of the State of Montana. They are certainly pretty far West, and they are very anxious to have this bill defeated.

Mr. WALSH. I never heard anybody from the intermountain country take that position, and we take credit out there for knowing what our own interest is.

Mr. FESS. I recall some one from Idaho—I think it was Mr. Sweeley—that appeared before the committee.

Mr. GOODING. Not before this committee; he appeared before the House committee a year ago.

Mr. President, I want to say to the Senator from Ohio that I am glad he has made clear the facts in regard to this great empty-car movement during this one month, because I think I have said to the Senator on different occasions that the records of the Interstate Commerce Commission show that the actual movement of empty cars westbound in the intermountain country is lighter than it is in any other part of the United States, considerably less; and it is an extravagant statement for the Senator to use this great empty-car movement in one month, because it would not serve the transcontinental railroads to any great extent if it were all in one month, anyhow. That empty-car movement, I anticipate, was composed of refrigerator cars westbound, going into the interior and never reaching the coast, and yet the Senator stands up here and says that 75 per cent in one month moved to the coast. I am sure the Senator is wrong in his statement.

Mr. FESS. The Senator does not mean to imply that there are no empty cars going west?

Mr. GOODING. Oh, no; I want to say that there is about 30 per cent, from 24 to 34 per cent, of empty-car movement on all railroads in the United States all the time; and there is less in the West than any other point, over the transcontinental railroads.

Mr. FESS. And the Senator admits that if the cars could load on the Pacific coast there would be less empty cars.

Mr. GOODING. So few that it would not amount to anything at all. If they had all the freight that they are asking for westbound, it would mean a revenue of only about $15,000,000 for five or six transcontinental railroads. Why, they would not be able to find it in their revenues.

This is true, too: While there has been an increase of only 35 per cent in transportation on the railroads of the United States as a whole since 1916, there has been an increase of 100 per cent on the transcontinental railroads; and then the Senator stands here and says that the Panama Canal is destroying or may destroy the transcontinental railroads, and he wants them held so that in case of war they will be intact, and the rails will not rust, with all the dividends that I showed that they were paying—higher dividends than any other railroads in the United States.

Mr. FESS. Mr. President, who has the floor?

Mr. GOODING. The Senator yielded, and I will yield to him.

Mr. FESS. I wish the Senator would yield now.

Mr. GOODING. I will yield.

Mr. FESS. Mr. President, I have the greatest admiration for the unlimited enthusiasm, that becomes even more than audible, of the author of this measure. His untiring interest and industry has been such that he has worked day and night publicly here in the Chamber, and in the committee room, and sitting down in his genial way talking to individual Members, which was the proper thing for him to do. It was only his fine personality that gave him such a remarkable vote last session over my protest; but I assure him that he will have no such vote this time. This measure certainly can not pass this body this year. Mr. President, I will not detain the Senate longer to-day. As the debate progresses I will have something more to say on the issue.

THE PROHIBITION LAW

Mr. McKELLAR. Mr. President, for more than 50 years prior to the actual coming of the national prohibition law, the sober-minded, God-fearing, Christian people of this Nation waged an unremitting fight to make this Nation a sober people. It was first a community fight, then became a county fight, then a State fight, and lastly a national fight.

Prior to 1914 only nine States had abolished the liquor traffic. Between 1914 and the time the prohibition amendment went into effect 24 States adopted prohibition. In 1918 the war-time prohibition act was enacted and it became effective June 30, 1919. The eighteenth amendment had been submitted to the States by the Sixty-fifth Congress on December 18, 1917. Between January 8, 1918, and February 25, 1919, the legislatures of 45 States had ratified it. The forty-sixth State, New Jersey, ratified it on March 9, 1922. In nearly all of these States the vote was decisive, and the majority overwhelming. Only Connecticut and Rhode Island failed to ratify it. It is a little curious, it may be remarked here, that the forty-sixth State, and the last State to ratify it, waited until March 9, 1922, and constituting the last expression of the people of that State, on that question, was the State of New Jersey, whose two Senators are now so violently opposed to the amendment and to the law enforcing it.

The Volstead Act, officially known as the national prohibition act, was passed in October, 1919, and President Wilson vetoed it, and a few days later it was passed over his veto. This law took effect at the same time the amendment took effect, January 17, 1920, so that for a little more than six years we have been operating under the national prohibition act, known as the Volstead Act. It will be remembered that the Willis-Campbell Act, strengthening the provisions of the Volstead Act, became the law on November 23, 1921.

MOVEMENT TO REPEAL

Mr. President, ever since the national prohibition act took effect there has been a great deal of discussion in the public prints and by the few advocates of liquor, on the floor of the House and Senate, about the repeal of the eighteenth amendment and the national prohibition act. The causes of this discussion are easily seen. In the first place, the temperance people, composed very largely of the church people of the Nation, both men and women, after the passage of these measures, felt that the temperance situation was secure; that it had been a hard battle, and they had won, and that they had won in a lasting way; that there was no danger of a possible repeal; and so since that time they have contented themselves with resting upon their oars and not saying much.

On the other hand, very naturally, those who had lost in the prohibition fight have been and are full of criticisms of the constitutional enactment and the law, and they have been quick to catch at any straws which would indicate a change of sentiment upon the part of the people. One day we find them engaging in a frantic appeal for light wines and beer; another day they show great concern for other sections of the Constitution. Then we have homilies on law enforcement as to all laws except the prohibition laws, which they seem to think it is all right to violate. Then we have discussions about the possibility of repealing the liquor laws, and then we have a great deal of loose talk about there being more drinking than ever before; that the prohibition laws are failures; that the people are dissatisfied with them; that they were passed not by the good Christian temperance people of the land, but by the bootleggers, in order that they might ply their trade; that the expense of enforcing the prohibition laws is ruining the Nation. They discuss the tyrannies and crimes of the prohibition-enforcement officers; they inveigh against the iniquities of the Anti-Saloon League; they look with horror upon the efforts of the Women's Christian Temperence Union, and many other such flimsy and unstable arguments, the most of which are without foundation. Indeed, Mr. President, if I did not have such great respect for the distinguished gentlemen on the floors of the two Houses who thus inveigh against the prohibition laws I would say that there was little but twaddle in their arguments. I think the great body of American people so consider them.

Again, prohibition affected the appetites of so many people that those who have contracted the habit of strong drink have made every effort to secure supplies from any available source. It must be borne in mind that any law that deprives any considerable body of people from gratifying their appetites will be decried against by those thus deprived. It is so in the narcotic law and it is so in reference to every other law of a

similar nature. It is perfectly natural that those who have discussed the question most have been those rather small elements of our social fabric.

Again, there is also some reaction against any law after it has been put into effect, however righteous that law may be; and this is especially so in the case of a law affecting the personal habits of so many people.

These things account largely for what we see in our newspapers and hear on our rostrums about the repeal or modification of the prohibition law.

NO REAL CHANGE OF OPINION

More than three and a half years ago the Manufacturers' Record of Baltimore published letters from several hundreds of the foremost business men, manufacturers, bankers, farmers, educators, and professional men in the country, giving their views about the moral and economic value of prohibition. It appears that 98½ per cent of the reports showed they were in favor of some sort of prohibition, while 85½ per cent were for strict prohibition. Only 7 per cent wanted wine and beer, while 2.75 per cent were undecided and 1½ per cent were opposed to prohibition. Last spring a correspondent of the Manufacturers' Record indicated that there had been a change of opinion and suggested that a survey be again made by the Manufacturers' Record to ascertain whether or not these men had, as a matter of fact, changed their views after several years under the prohibition law. In the Manufacturers' Record issued July 30, 1925, the reports of these gentlemen are inserted, and they show that all held to their former opinion. Manufacturers said the economic advantages of prohibition were tremendous. Leading doctors throughout the country said the death rate had been lowered and the sickness rate had been lowered; that savings accounts had been increased. Others claimed it has been a boon to women and children and a blessing to the entire country. One head of many large factory plants said that prohibition meant sober employees, better workmen, better husbands, better fathers, and better citizens, and I believe that all these things are true. In our hearts we all know they are true.

EVIL EFFECTS OF ALCOHOL

I need not dwell on the evil effects of alcohol as a beverage. Knowledge of its blighting effect on the human system—on the mind, body, and morals—is now known of all intelligent men and women.

It first excites and stimulates the mind and whets the appetite, and soon a permanent appetite is formed for alcohol in ever-increasing quantities. Later it stupefies and deadens the mind and beclouds the intellect. Its inroads are not as rapid as in the case of the use of habit-forming drugs, but in the end its harmful effect is just as certain. No one can long use it in excess without beclouding, benumbing, and completely ruining his or her intellect.

Its effect on the body is just as disastrous. It engenders disease in nearly all the organs of the body. It attacks the heart, causes the hardening of the arteries, taints the blood, attacks and in the end destroys the kidneys, injures the liver, burns out the stomach and intestines, destroys the efficiency and color of the skin, affects the bone, and finally weakens and breaks down and destroys the whole human system. And while alcohol is having this effect on the mind and body it in a similar disastrous degree operates on the moral system. It makes of one a moral coward. It leads him to falsify, to steal, to be dishonest, and oftentimes to the commission of all kinds of crimes.

Some of the brightest minds I have even known in professional, business, and even in public life, have been injured or even destroyed by its excessive use. Some of the most naturally honest men in the world have fallen by the wayside by reason of its insidious effect. Countless millions have passed on before their time into endless eternity because of this blighting and awful habit. I sometimes wonder how any grown man or woman can defend its use. Nearly all of our leading modern physicians, instead of prescribing it, now decry it, and many of them, like Dr. Harvey W. Wiley, Dr. Haven Emerson, Dr. Howard A. Kelly, Dr. John Harvey Kellogg, and many others, have become the most ardent advocates of prohibition.

HOW PROHIBITION AFFECTS VARIOUS CLASSES

Mr. President, I think it will be interesting to consider for a moment how the prohibition laws affect various classes of our people. The colored people, composing in our part of the country a very large segment of our population, are, in my judgment, tremendously benefited by this law. Their improvement since prohibition has been most marked. They are buying homes and farms. They are sending their children to school. They are better clothed and better fed. They are better men and women and are making better citizens. Prohibition has probably been a greater boon to them than to any other class.

Again, those white people who labor on farm or in factory, the clerks in our stores, the small merchants, all classes of people who work with their hands, men and women, have been greatly benefited. The farmers have been greatly benefited. All those employing labor have been greatly benefited. All these classes of people have been greatly benefited by the closing of the saloon and by the consequent rise in the price of illegal liquor. These liquors are so high that people of ordinary means can not afford to buy them, and thus the temptation has been greatly removed.

But, Mr. President, there is a class of our citizens that apparently prohibition is injuring. I say "apparently" because this injury does not come from the prohibition law itself, but it comes from a very determined and willful effort on the part of the people of this class to violate the law. They just seem determined to derive no benefit from prohibition. This class or element of our population are generally accorded to be the better class of people. Some call them the "moneyed aristocracy." I would not call them that. But it is certainly the wealthier class of our people. It is composed of those men and women who have the money to buy liquors at high prices. Men who have inherited wealth or have made large wealth and now have much leisure—men with leisure enough to frequent city clubs, social clubs, country clubs, golf clubs. Women whose lives are largely given over to entertaining and being entertained, many of whom have no real business in life except perhaps to succeed socially. Frequently we speak of these people as the better classes of our people, but they constitute those who are more than any other class apparently openly and proudly violating the prohibition law.

Mr. President, frequently the result of a law can not be forecast. Before the national prohibition law came, one would have supposed that this element of our population of which I am now speaking would have been foremost in upholding the law. Composed of men and women, largely of education, of good training, of property and substance, one would have thought that they would not be willing to take the risk of tearing down any law, but would be the first class to uphold and defend all laws; and yet we find this class, more than any other class, is violating the law and holding in contempt and even derision, for the most part, the Constitution and laws of our country.

Not only do we find men of this class violating the law but women also. They give parties. They invite friends, serve cocktails or highballs, or put a little flask of liquor by each plate, covered under a pretty paper. They buy the liquor from bootleggers. They know these men are violating the law when they purchase. They join in this violation. Mr. President, it is an awful thing to contemplate that these citizens constituting a very small proportion of the people of America, but at the same time a very influential and important part of the people of America, would thus be willing to openly and flagrantly violate the law.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. I would like to ask the Senator from Tennessee whether he thinks that these thousands and thousands of arrests for drunkenness throughout the United States are referable to that particular limited social class of which he speaks?

Mr. McKELLAR. Very few of them belong to it. The thousands who are arrested are from the poor people, who in some way get hold of liquor. But, as the Senator knows, and as I know, and as every other Senator knows, the class of which I am now speaking is the class violating the liquor laws more than any other class, because, in the first instance, they have the money to buy, and in the next place the influence to keep out of the clutches of the law. While we all probably are more familiar with that class of people than any other, we know that what I am stating about that is absolutely true, and there is not a man or woman within the sound of my voice who does not know that in the so-called better elements of our social fabric the people are violating the law more than they are in any other class.

Mr. BRUCE. It seems to me, if the Senator will permit me to say so, that he is simply trying to do what is a very common thing in public life, to stir up a spirit of social prejudice and disaffection.

Mr. McKELLAR. Quite the contrary. If the Senator will let me proceed for a moment, I shall urge with all the force of which I am capable this splendid class of our citizens, who I believe are doing themselves such great harm, with all the sincerity of purpose of which I am capable, to cease

violating the law. I do not like to see these people violate the law any more than to see any other class of our people violate the law, and not as much, as a matter of fact.

Mr. BRUCE. The Senator admits, anyhow, that this vast number of arrests for drunkenness does not emanate from that class?

Mr. McKELLAR. I will get to the matter of drunkenness in a little while; but I will say that a very small portion of those who are actually arrested belong to the class of people about whom I am now speaking.

Mr. BRUCE. Is it or not the observation of the Senator from Tennessee that that class seems to be able to drink without any particular amount of excess?

Mr. McKELLAR. So far as I can recall, my memory running back over the last two or three years, the only drunken people I have seen belong to the class to which I am now referring.

Mr. BRUCE. The Senator's observation is very different from mine. I have had a considerable scope of social experience, and I can truly say that in the last five years I have not seen a human being within the circle of my personal friends and acquaintances who was drunk.

Mr. McKELLAR. Then I want to congratulate the Senator on that admission. It shows that the Senator, in the class of people concerning whom we are now talking, has not seen one person under the influence of liquor in the last five years. I believe that was the statement. That is a wonderful record for prohibition.

Mr. BRUCE. I have never seen one man or woman in the city of Washington under the influence of liquor, in the circle of my social associations, and I have seen 5,000 drink.

Mr. BROUSSARD. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. BRUCE. Of course, when I said 5,000, I was using exaggerated language.

Mr. McKELLAR. I was quite sure of that.

Mr. BRUCE. I have seen dozens and dozens drink, and I have yet to see one single drunken man or woman within the circle of my social connections in the city of Washington.

Mr. McKELLAR. Since prohibition?

Mr. BRUCE. Yes; since prohibition.

Mr. McKELLAR. I am glad to have that admission from the Senator. It means a great deal in this debate.

I now yield to my good friend the Senator from Louisiana.

Mr. BROUSSARD. At the time of the adoption of the eighteenth amendment and the enactment of the Volstead Act I claimed that it was class legislation. After hearing the latter part of the speech of the Senator from Tennessee, I am confirmed in that opinion, and agree with the Senator's argument that it is class legislation.

Mr. McKELLAR. The legislation is not class legislation. The enforcement of it is to some extent open to that criticism.

Mr. BROUSSARD. The enforcement is class enforcement. It is enforced among certain classes.

Mr. McKELLAR. That is lamentably true.

Mr. BROUSSARD. Despite the efforts made by the prohibition department. Do not the men charged with the execution of the law know that every man who before prohibition drank anything and has money now is still drinking? Why do they not arrest them?

Mr. McKELLAR. I do not know. I can not go into that; that is not my province. But I will say this to the Senator, that I believe the officers of the law are trying their best to do their duty.

Mr. BROUSSARD. And are arresting the poor devils.

Mr. McKELLAR. Mostly those; yes.

Mr. BROUSSARD. Will the Senator answer another question?

Mr. McKELLAR. I shall be glad to do so if I can.

Mr. BROUSSARD. The Senator has described the effect of alcohol on the human system. Can the Senator from Tennessee name a single individual in history who has a world-wide reputation who was a total abstainer?

Mr. McKELLAR. I do not think I can just at this moment.

Mr. BRUCE. If the Senator from Louisiana is really seeking such an example, he can find one in the Senator from Tennessee himself. [Laughter.]

Mr. McKELLAR. We will not discuss that.

Mr. President, continuing about this particular class of people for a moment, their own violation of the law is not the worst feature of this situation. The worst feature is that they are teaching their own sons and daughters to violate and hold in contempt this law and all other laws of our land. How sad it is to contemplate that when their sons and daughters become drunkards they themselves are showing them the way. When their sons and daughters become law violators of every kind, they themselves are showing them the way by precept and by example.

Mr. President, if this small but influential class of our people could be prevailed upon to obey the law, there would be no further talk, in my opinion, about law enforcement. Many of these people are church people. The most of them are our so-called best citizens, and perhaps about all other things except liquor-law violations are justly entitled to be called good citizens. They know better than to violate the law. They have had better training than most people. They must love their children. They must respect their Government. They must desire that our Constitution be upheld. They must desire that the rights of life, liberty, and property be upheld, and yet how can they expect these protections and safeguards if the law shall be thrown around them when they are openly, notoriously, and even proudly boasting of their own violation of one of the provisions of the Constitution. Under the laws of our land these classes of our people are constantly increasing their wealth and power. They are more interested in safe conditions, more interested in law enforcement, than any other people in our land, and yet to-day they are doing more than all others besides to undermine our social fabric and to break down orderly government.

Mr. President, I want to appeal to these classes of our people to obey the law. I want to appeal to them, not only in their own interests, but in the interests of their sons and daughters who are growing up around them. I want to appeal to them to let their better natures assert themselves to the end that orderly government may prevail in our land.

Mr. President, not long ago I was invited to a large dinner party given by some friends of mine. Liquor was served. I sat on the right of my good hostess. She did not drink herself. She was a member of the church. Her husband has been successful. He has recently become rich. She had sons and daughters. They all wanted to get along in the world and she confided in me that she thought it was wrong to serve liquor, but that unless she did she was not invited to the homes of the best people, and that unless she served wines at her house the best people would not come, that her children could not go with the children and the best people unless liquors were served. Ah, Mr. President, what a travesty, what a misguided view this is of real life, that in order to rise in the social scale one must become a law violator and a Constitution derider. What will become of a class of people, even though it may be called a moneyed aristocracy, which thus flagrantly teaches a violation of the law and inculcates into their children a disrespect for the established Constitution and laws of the land? I want to appeal to this element of our people to put themselves right and to uphold the Constitution and laws of our blessed country.

CHANCES OF REPEAL

Looking at the matter in a perfectly candid way, it would seem that the chances for repeal are practically negligible and the chances for modification are not a great deal better. The eighteenth amendment is as follows:

SECTION 1. After one year from the ratification of this article, the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

In order to change this constitutional provision it will be necessary for two-thirds of both Houses to pass a law nullifying the amendment. On an application of the legislatures of two-thirds of the several States a convention shall be called for nullifying the amendment, and even when this is done, it requires a ratification of such annulment by the legislatures of three-fourths of the several States or by convention of three-fourths of the several States. The Constitution has been in effect for 137 years. No amendment, once adopted, has ever been repealed, so that it would seem that at this time, with the overwhelming sentiment against drunkenness and the well-known injurious effect of the habitual use of intoxicating liquors, that there is hardly a chance in a thousand that this amendment will ever be repealed.

Mr. BROUSSARD. Mr. President——

Mr. McKELLAR. I will yield to the Senator in just a moment.

Even supposing a constitutional amendment qualifying the prohibition amendment was passed. It would take the legislatures or conventions in 36 States to ratify such an amendment. Now, 33 States already have state-wide prohibition, and 13 States are all that are necessary to veto the legislation. Is it possible that the wets can get 21 out of the 33 of these prohibition States? Our liquor friends are evidently not advised as to the prohibition sentiment in those States, if they think they can. So far as I can see, the sentiment in this country is be-

coming more favorable to prohibition, rather than to a return of liquor.

Mr. BROUSSARD. Will the Senator yield to me now?

Mr. McKELLAR. I gladly yield to my friend now.

Mr. BROUSSARD. I am glad the Senator continued before yielding, because that which he stated after my attempted interruption demonstrates exactly what I wanted to say. The Senator and I live in the South. The fourteenth and fifteenth amendments were not repealed.

Mr. McKELLAR. They are not repealed, and they are in very full force and effect in my own State of Tennessee.

Mr. BROUSSARD. They are not in my State.

Mr. McKELLAR. They are in Tennessee.

Mr. BROUSSARD. I will go further. I will say to the Senator that the enforcement in this country has abrogated almost all of the first 10 amendments of the Constitution. They have not been repealed.

Mr. McKELLAR. I do not agree with the Senator in that statement.

Mr. BROUSSARD. What has become of the guaranties to the citizens of the United States under the first 10 amendments of the Constitution, which were a part of the original Constitution? They are being disregarded to-day by the prohibitionist, who is merely looking to the eighteenth amendment.

Mr. McKELLAR. The Senator has asked a question and I want to answer it. I believe that the guaranties of the first 12 amendments of the Constitution are not only in just as full force and effect as ever, but they are more so. The only menace to those guaranties of personal liberty is the attempted violation of the eighteenth amendment and the laws enacted under it.

Mr. BROUSSARD. I disagree with the Senator about that entirely. Just to demonstrate, let me remind the Senator of what occurred on the floor of the Senate since I have been here. When the so-called beer bill was up for consideration, the Senator from Missouri [Mr. REED] offered the fourth and fifth amendments to the Constitution as an amendment to that bill without the change of a single word. When the amendment was offered, former Senator Sterling, of South Dakota, and the Senator from Ohio [Mr. WILLIS] objected, not recognizing them to be the fourth and fifth amendments to the United States Constitution.

The only exception that was made to the fourth and fifth amendments in the form of an amendment to be attached to the beer bill was the prohibition against search of the person, whereupon former Senator Stanley, of Kentucky, went to the then Senator Sterling and agreed to take out the inhibition against search of person. The amendment was then accepted and unanimously agreed to in this body. It went to conference and the conferees refused to accept it, and they brought back the provision that we have to-day, which permits search and seizure of papers and property and everything connected with it, which were supposed to be safeguarded under the fourth and fifth amendments to the Constitution. That has been made a part of the law.

Of course, the worst transgression of the fourth and fifth amendments is by the prohibition officers who are attempting to carry out the compromise in the way of a safeguard to the individual as contradistinguished from the fourth and fifth amendments to the Constitution of the United States.

Mr. McKELLAR. In answer to that statement I will say that I was present when the amendments were offered as described by the Senator from Louisiana. I rather thought they were offered in a facetious way. We all agree that the Ten Commandments are fairly worthy of being upheld and considered.

Mr. BROUSSARD. But we did not legislate those.

Mr. McKELLAR. And yet I have no doubt if somebody had offered the Ten Commandments in the form of an amendment to the bill then pending, the amendment would have been voted down, not because Senators were opposed to the Ten Commandments but because they had no proper place in the bill.

Likewise those amendments to the Constitution of which the Senator speaks were voted down. Why? Not because those who voted them down did not believe in them. They believed in them just as certainly as any others. They voted them down because they had no proper place in such legislation. The Supreme Court of the United States has upheld the law of which the Senator complains. It has been criticized just as the Senator has criticized it. Those criticisms have been brought to the attention of the court in a due and proper way. The cases have been carried to the Supreme Court of the United States, and every contention made by the Senator and other Senators who believe with him and who voted against the amendments at the time has been overruled by the highest courts in the land. The highest courts in the land have said that the law is in perfect keeping not only with the eighteenth amendment but with the first amendment, the second amendment, the third amendment, the fourth amendment, and every other part of the Constitution. How can it be criticized by claiming violation of the other provisions of the Constitution, when our Supreme Court has held that there was no violation? I know that the Senator, like myself and all other good citizens, must concede that when the Supreme Court renders its opinion upon the Constitution of the United States that opinion is final and binding until the National Legislature changes it.

Mr. BROUSSARD. Mr. President, will the Senator permit me to interrupt him, just to keep the record straight?

Mr. McKELLAR. Certainly.

Mr. BROUSSARD. The Senator did not vote against that amendment when it was before the Senate.

Mr. McKELLAR. I do not recall.

Mr. BROUSSARD. No one in the Senate voted against it.

Mr. McKELLAR. I should have done so if I did not.

Mr. BROUSSARD. The Senator said it was voted down. There was not a vote cast against it until the conferees emasculated the fourth and fifth amendments to the Constitution which had been offered as an amendment to the bill.

Mr. McKELLAR. Finally we voted against it, because they were not in the measure when it was passed. If we let it go by as the Senator has said, I think we made a mistake in letting it go by even that far.

SALOONS GONE FOREVER

As evidence of the almost unanimous sentiment against the indiscriminate use of intoxicating liquors by the people, there is practically no one now who would argue in favor of the reopening of the liquor saloon.

I digress here long enough to ask the question, is there a Senator on this floor who would vote to restore the saloon to the people? If so, I should like to hear from him. [A pause.] Well, that is one victory, anyway; that whatever views Senators may have about liquor the eighteenth amendment has abolished the saloon in this country and we all acquiesce in its abolition.

Yet, I remember the day when there were few men who would say that they were in favor of the abolition of the saloon.

Mr. President, I remember the day when the saloons were the seats of political power in this country and almost controlled it, and yet the abolition of the saloon is what the eighteenth amendment and the Volstead law have done in the interest of the people. They have abolished the saloon. Even the most violent opponents of the Volstead law and of the eighteenth amendment almost without exception are opposed to a reestablishment of the saloon. I do not believe any advocate of liquor in this body, however ardent, would advocate a return to the open saloon, and that has been shown by the question that I asked and the lack of an answer.

Mr. BROUSSARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. McKELLAR. I yield.

Mr. BROUSSARD. Does the Senator from Tennessee contend that there are no saloons in the United States at this time?

Mr. McKELLAR. There may be saloons, but I do not know of any.

Mr. President, I remember when the liquor saloons were powerful enough to control the politics of practically all our cities and of the most of our States. The marvelous change in sentiment toward the saloon shows the underlying sentiment against their reestablishment and in favor of a sober Nation and a sober people.

But our liquor friends say they are not going to return to the open saloon, that they will have the breweries dispense beer by wholesale and deliver it at the consumers' houses and that wines and liquors may be dispensed by the Government, if necessary, or by the drug stores or other such agencies. Mr. President, I am no more in favor of a drug-store saloon than an old-fashioned saloon, and the American people are not going to permit drug stores to be turned into saloons. They are not going to permit the return of the saloon in any guise, form, shape, or under any name, alias, or subterfuge. When the saloons were here, they debauched the men, ruined the lives of women, and were a constant menace and source of destruction to the youth of the land. They debauched the politics of the Nation, they constituted one of the worst enemies of industry, they prevented saving and were a constant source of destruction to health, happiness, morality, decency, honesty, clean politics, good government, and of even life itself. The American people know what they were. They

know their hurt and injury, and they will never let them come back under any form or under any pretext.

In the great fight for their destruction the wine and beer interests lined up solidly with the liquor interests, and they went down with the liquor interests, and, in my judgment, they went down for all time. If you modify the law to open legally a beer-selling place, it will not be two weeks before the owner of the place will be selling liquor illegally. If you permit wine to be sold in like manner, it will only be a short time before liquor will be sold there illegally. In other words, when it comes to intoxicating drinks, when you modify the law, it is to destroy the law. If you allow light wines and beers to be sold, instantly liquor will be sold illegally.

THE CASE OF MEMPHIS

Mr. President, the beneficial workings of the prohibition laws can not be better illustrated, perhaps, than in the case of my own home city of Memphis.

After one of the greatest political fights that ever took place in Tennessee, a fight in which tragedy in high place was a part, Tennessee in February, 1909, passed over the veto of the then governor a state-wide prohibition law. Perhaps, unfortunately, this law had never been submitted to a state-wide vote, but the sentiment in favor of doing away with the saloon and of establishing state-wide prohibition was overwhelming, except in the large cities. In Memphis for the first several years after the passage of the law the statute was openly and flagrantly violated. In fact, no attention whatsoever was paid to it. Indeed, at one time during this period Memphis voted wet and in favor of the saloons by something like 7,500 majority; and then came a revulsion in sentiment and the state-wide laws were partially enforced. When the war-time prohibition act came they were better enforced, and when nation-wide prohibition came they were even better enforced; and, in my judgment, while their violation is still very considerable, they are being better and better enforced every year.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. Is the Senator from Tennessee aware of the fact that complaint has been more than once made in recent years that criminal conditions in the city of Memphis are so bad that it is difficult to obtain from the public authorities in that city statistics in relation to them.

Mr. McKELLAR. No, sir; I am not aware of that fact.

Mr. BRUCE. But it is a fact.

Mr. McKELLAR. I have lived in Memphis for 32 or 33 years, and I think conditions there are more favorable to law enforcement of all kinds than they ever were before in the history of the city.

I want to say another thing. I have here a statement from the chief of police of the city of Memphis which affords absolute proof of what I am saying, if it were necessary to prove it. I want to say that there is no more doubt of the splendid effect the prohibition laws have had in Memphis than there is about my standing on this floor and speaking on this subject to-day.

Mr. BRUCE. I am not asking the Senator from Tennessee for an asseveration. I am asking him for facts.

Mr. McKELLAR. And I will give them to the Senator if he will permit me.

Mr. BRUCE. The statement has been made to me that it is practically impossible to obtain from the public authorities of Memphis a statement in relation to the extent of criminal conditions in that city.

Mr. McKELLAR. I will give the Senator any information that he may want on that subject at any time, or I will see that it is furnished to him.

Mr. BRUCE. I will ask the Senator from Tennessee, has he before him any table going to show the extent to which arrests for drunkenness have increased in the city of Memphis since the year 1920?

Mr. McKELLAR. I have such a statement, and I will submit it as an exhibit to my remarks here this afternoon. I have those statistics right here, and I will give them to the Senator from Maryland.

Mr. BRUCE. I shall be glad to see them. All I have to say is that if they do not show a steady, progressive increase in the number of arrests for drunkenness, the city of Memphis enjoys the exceptional distinction of being the only large city in the Union in which such a steady, progressive increase has not taken place.

I do not want to be misunderstood. I have no disposition to cast any reflection upon the worthy people of the city of Memphis or upon any other city in the United States.

Mr. McKELLAR. I do not think there are any worthier people in any city than there are in Memphis.

Mr. BRUCE. We all know that allowance should be made for the peculiar composition of its population, which naturally tends much more readily than the population in some of the more northern cities to swell criminal statistics; but I will ask the Senator another question.

Mr. McKELLAR. Let me answer the Senator's last question first. It will take me just a moment. I will give the facts from information furnished by the chief of police of the city of Memphis. I wrote him under date of February 12, 1926, and asked him several questions. I give the Senate his replies just as they have come to me to show how faulty is the information of the Senator from Maryland about the city of Memphis.

Mr. BRUCE. I have asked the question for information.

Mr. McKELLAR. I will read the letter and the answers of the chief of police:

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
Washington, D. C., February 12, 1926.

Hon. J. B. BURNEY,
Chief of Police, Memphis, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement, in so far as they affect your city.

How many arrests for drunkenness were there in Memphis in 1912 and how many for 1924?

Arrests, 1912	1,528
Arrests, 1924	1,530

In 1912 was there a local law authorizing the police to arrest for drunkenness alone? There was; but about 60 per cent were held to sober up and no record.

Was there such a law in 1924?

In your judgment, were more liquors drunk in Memphis in 1912 than in 1924?—Yes.

If drinking has increased, state the amount of increase, in your judgment.

He does not answer that question. [Laughter.]

Do not laugh quite so fast, because the next question answers that and explains it in a way to the great honor and credit of my home city. The next question is:

If drinking has decreased, state the amount of decrease, in your judgment.

And his answer is:

About 75 per cent.

Mr. BRUCE. I am not talking about generalities.

Mr. McKELLAR. Oh, no; the Senator did not expect these figures. The Senator laughed when I said the question was not answered, but when the facts are shown he tells me he does not want them.

Mr. BRUCE. I said I was not asking for generalities.

Mr. McKELLAR. I know the Senator is not.

Mr. BRUCE. The statement as to a 75 per cent decrease expresses nothing probably but the hasty judgment of a police authority who wishes to make a goodly showing for his city. The essential fact is, however, that the number of arrests for drunkenness, as I understand the paper which the Senator has just read, in 1912, before the adoption of the eighteenth amendment, and in 1924, after the adoption of it, is practically the same.

Mr. McKELLAR. Just a while ago the Senator said the number had enormously increased, but here is a man who knows his business as few other men do know it in this country——

Mr. BRUCE. If the Senator——

Mr. McKELLAR. Just one moment—and this man states, in answer to the question, that 60 per cent of those who were found drunk in the old days were allowed to sober up or they were sent home in carriages, where they were able to be sent home, and that few arrests at that time were made.

Mr. BRUCE. The Senator will do me the justice to say that I said that there had been a steady, progressive increase of drunkenness since 1920; that is to say, ever since the adoption of the Volstead Act. It would be a poor showing, indeed, if after all the stupendous machinery of Federal repression had been set into motion the number of arrests in 1924 were as great as it was in 1912.

Mr. McKELLAR. Let me finish reading from this letter. I think, after the assault the Senator has made upon the morality of my home city, and his reference to the criminality there prevailing, it is nothing but fair that the facts may be adduced, and I wish to read the remainder of the letter.

Mr. BROUSSARD. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Just a moment. I want to give the facts.

The PRESIDING OFFICER. The Senator from Tennessee declines to yield.

Mr. McKELLAR. I will yield to the Senator in a moment. He does not know the facts, and the man who wrote to me does know them.

If drinking has decreased, state the amount of decrease, in your judgment.—About 75 per cent.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924?

Men arrested in 1912	1,270
Men arrested in 1924	1,432
Women arrested in 1912	258
Women arrested in 1924	98

In your judgment, were as many people seen drunk on the streets of Memphis in 1924 as in 1912?—No.

What was the total aggregate amount of fines imposed for drunkenness in Memphis in 1912 and what was the amount in 1924?

Fines, 1912	$10,368
Fines, 1924	12,025

In your judgment, was one-tenth as much liquor consumed in Memphis in 1924 as in 1912, when all the saloons were open and running all day and much of the night?

Were you able to preserve order in the city of Memphis better in 1924 than it was preserved in 1912, when all the saloons were open?—Yes.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

Then he adds this:

Population of Memphis in 1912	135,533
Population of Memphis in 1924	174,567

Population in the suburbs is probably ten times more in 1924 than 1912 on account of automobiles and good roads.

J. B. BURNEY,
Chief of Police, Memphis, Tenn.

Mr. BROUSSARD. Mr. President, now, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. BRUCE. Will the Senator from Louisiana allow me a moment?

Mr. BROUSSARD. Yes.

Mr. BRUCE. I am sorry to make the statement; I do not know whether it is correct or not; but I have seen the statement made more than once that the crime rate in the city of Memphis, Tenn., is higher than in any other city in the United States.

Mr. McKELLAR. Mr. President, Memphis happens to be right in the corner of the three States of Arkansas, Mississippi, and Tennessee, and there are as I remember 14 trunk roads running into Memphis——

Mr. BRUCE. Does the Senator mean to say that Memphis has been corrupted by bad neighbors? [Laughter.]

Mr. McKELLAR. Not at all; but when men are hurt in Mississippi, when they are injured in Arkansas, when they need hospitalization from anywhere on those railroads, they are brought into Memphis, and the deaths that take place from violence are included in the figures of Memphis. That is why the figures that the Senator saw occur there. I will say, however, that violations of law in the city of Memphis are not half so numerous, not half so flagrant, as they are in the good city of Baltimore, which is represented in part by the Senator from Maryland. I have been in both cities time and again; I am somewhat familiar with the conditions in both cities; and I say to the Senator that if he will do me the credit to pay me a visit and come down into the city of Memphis on a visit for a few days, he will find a city that is as good a law-and-order city as there is in this country.

Mr. BRUCE. Will the Senator from Tennessee assure me that I will come back whole if I do?

Mr. McKELLAR. I will; and I do not know whether the Senator could give me that assurance in case I came over to Baltimore or not.

Mr. BRUCE. I will ask the Senator just one more question and then I will desist.

Mr. McKELLAR. All right.

Mr. BRUCE. Does the Senator know what the arrests for drunkenness in the city of Knoxville, Tenn., were in the year 1922?

Mr. McKELLAR. Yes, sir. I did not know until I heard the Senator discuss the matter here, and I found that the Senator was so very greatly mistaken as to his facts that just a little later I am going to give the facts as taken from the law officers of the city of Knoxville.

Mr. BRUCE. There was a great deal of reluctance, apparently, on the part of the public authorities in Tennessee about giving facts of that kind, and I could get the facts as respects Knoxville for only two years. I got them, however, from the public authorities. For the year 1922 the arrests for drunkenness in the city of Knoxville were 2,753, and for the year 1924, 4,456.

Mr. McKELLAR. Yes; and I will give the Senator the facts in a moment. As the Senator knows, my State is very dry, and I think most of the people down there regard the Senator as a "wet" Senator, and they are probably a little chary about giving out information to him; but I will say to him that if he will prefer any request through me, I will guarantee that he will get a prompt reply to any letter that he may write.

Mr. BRUCE. They would know down there that the "wets" have too scrupulous a regard for accuracy and facts——

Mr. McKELLAR. Oh, no; I think the Senator has been very careless about his facts, and especially about Memphis and Knoxville.

Mr. BROUSSARD. Mr. President——

Mr. McKELLAR. I now yield to the Senator from Louisiana.

Mr. BROUSSARD. I wanted to ask the Senator a question while he was referring to the chief of police of Memphis, but I was unable to secure his permission to interrupt.

Mr. McKELLAR. I shall be glad to yield. I did not mean any disrespect to the Senator because I did not yield at that time.

Mr. BROUSSARD. I understand. When the Senator was dealing with the equal number of arrests in 1912 and 1924——

Mr. McKELLAR. But in 1912, 60 per cent of them were sent home in carriages, or otherwise cared for without any arrests, according to the report.

Mr. BROUSSARD. Will the Senator permit me to complete my question?

Mr. McKELLAR. Indeed I will.

Mr. BROUSSARD. I am glad the statement has been made. That is just what I was going to bring out, that those fellows were not arrested in 1912.

Mr. McKELLAR. No, sir; they were not. I want to say to the Senator, in answer to that question, that I happened to be in Memphis in 1912 a large part of the time, or at any rate along in those years; and I said here on the floor of the Senate the other day that I do not believe there is one-tenth as much drinking of intoxicating liquors in the city of Memphis to-day as there was at that time. I doubt very much whether there is one-twenty-fifth as much to-day as there was then.

Mr. BROUSSARD. But I should like to complete my question.

Mr. McKELLAR. I beg the Senator's pardon.

Mr. BROUSSARD. I should like to ask a question and follow it up.

Mr. McKELLAR. Very well.

Mr. BROUSSARD. I think the burden of the Senator's speech up to now has been to denounce the people who can afford to buy liquor.

Mr. McKELLAR. Oh, no; I am pleading with them to quit doing so.

Mr. BROUSSARD. Then I misunderstood the Senator.

Mr. McKELLAR. I am not abusing them at all. I think they could spend their money to infinitely better account than in violating the Constitution and laws of their land.

Mr. BROUSSARD. I thought the Senator promised to permit me to propound a question.

Mr. McKELLAR. I am answering the questions as the Senator goes along. The Senator is saying a good deal.

Mr. BROUSSARD. I have not gotten through the question.

Mr. McKELLAR. I will yield to the Senator long enough to ask it.

Mr. BROUSSARD. Let me finish the question. I said that the burden of the Senator's speech has been to charge that the people who can afford to buy liquor, the wealthy people, those who can afford to buy at the high prices to-day, are violating the law with perfect immunity, and that the law is not being enforced.

Mr. McKELLAR. Oh, no; I did not say that.

Mr. BROUSSARD. Wait a minute.

Mr. McKELLAR. The Senator does not want to put me in a false attitude. I did not say either one of those things.

Mr. BROUSSARD. If the Senator does not want me to ask him a question——

Mr. McKELLAR. But the Senator is asserting something that I did not say. I am perfectly willing to answer any question.

Mr. BROUSSARD. Why does not the Senator permit the question to be asked before he corrects it? If he will do that, he can correct it afterwards, and I will take my seat.

Mr. McKELLAR. All right.

Mr. BROUSSARD. I am trying to state what I understood the Senator's speech to be.

Mr. McKELLAR. I will inform the Senator that I did not say that at all.

Mr. BROUSSARD. I will frame the question all over again, because I should like to have a complete question and a complete answer, and I can not have a responsive answer if I am to be answered in sections.

Mr. McKELLAR. All right.

Mr. BROUSSARD. I will ask this question, and I will put it all in one, and I will ask the Senator not to interrupt me until I have asked it.

Mr. McKELLAR. All right; go right ahead. I hope the Senator will not make the question too long.

Mr. BROUSSARD. I understood the Senator's records furnished by the chief of police to state that in 1912 a number of people who were picked up for drunkenness were not listed, but were taken home or permitted to sober up; and then when he answered the question as to 1924 I called his attention to the entire burden of his speech up to now, where he admitted that only a certain class of people were being arrested. Suppose, now, that you added those who had been granted immunity under the law, how many more would you have had arrested in 1924?

Mr. McKELLAR. In the first place, I did not make any such statement as the Senator attributes to me. In the next place, I will say that if all of the people who are now allowed to go free under the law had been arrested, it would have increased the number considerably—not a great deal, because the class of people to which I have referred is not relatively a very large class.

Mr. President, it may not be amiss here for me to state a personal and political experience that I had in this Tennessee situation. I had been elected to the House of Representatives in 1911. In 1913, about the time that Memphis had voted so overwhelmingly wet, I was called on as a Member of the House to vote for or against the nation-wide prohibition amendment. Coming from a wet city I had been commonly accounted a wet. However, I studied the question just as I had to study every question before I voted on it, and I came to the conclusion that the liquor traffic was wrong and that I ought to vote against it, much to the surprise, I take it, of many of my constituents. Before thus voting I received letters by the thousands and petitions with thousands of names on them urging me to vote against the amendment, and saying that the overwhelming sentiment in Memphis was opposed to it; that it would mean the destruction of the property invested in the liquor business; that it would destroy the value of the real estate that was used for saloon purposes; that it would throw thousands out of employment; that it would destroy property values throughout the city; that it would destroy the prosperity and hamper the growth of Memphis; that it would not reduce liquor drinking; that in a few years cotton would be planted or grass would be growing in the streets.

Mr. President, none of these direful predictions came true. Men were allowed to dispose of their stocks of liquors. The saloon property, instead of losing in value, is worth from 100 to 500 per cent more than it was worth previously. All property values have increased from 100 to 500 per cent. This city has very nearly doubled itself in population in that time. Its growth and development and progress have been phenomenal; and, while liquor is still drunk there, I do not believe there is 1 gallon drunk there now where 10 gallons were drunk before they had prohibition.

Indeed, Mr. President, while I know that the liquor laws are violated there—more, perhaps, than in any other city in my State, because Memphis is on the Mississippi River and in the corner of three States, with the result that it is easier to smuggle liquor in than in most other places—while this is so, during the recess last summer I was in Memphis nearly four and one-half months, in which time I saw all classes of people and mingled with them all on the streets every day; and it was not until those four and one-half months had elapsed that I saw a single man or woman drunk from the effects of liquor. During my stay in Memphis, I saw two, whereas in the old days in Memphis it was nothing unusual to see in a single hour in an afternoon scores of persons under the influence of liquor, and many of them reeling drunk. There has been a vast improvement in Memphis, not only in the enforcement of the liquor laws but in the matter of liquor drinking, and I am constrained to believe that the day will come when that city will enforce the liquor laws as well as all other laws are enforced.

After making the statement that I did not believe there was one-tenth as much liquor drunk in Tennessee as before, when my statement was questioned by the Senator from Maryland, I took occasion to write the chief of police in the city of Memphis for his views upon this subject. Chief J. B. Burney was a member of the police force in 1912, when saloons were open. Now he is chief of police, and a splendid and efficient chief he is; and I have already read the report he has given. It will be noted that he places the decrease in the drinking of liquor at 75 per cent. I think the decrease has been even greater than that. Naturally, he is in touch with that class of our citizens who violate the law, and the present state of violations appear large to him.

OTHER CITIES IN TENNESSEE

In the other large cities of Tennessee the situation is much like it is in Memphis. I did not get an answer to my letter from the chief of police at Chattanooga, but I did from Nashville, Knoxville, and Jackson, and they will be printed at the end of my remarks.

Mr. President, the Senator from Maryland [Mr. BRUCE] some days ago referred to the situation in Knoxville, and he referred to it again just a moment ago, in proof of his claim that there is more drunkenness now than there was before prohibition.

Mr. BRUCE. Mr. President, just let me correct the Senator for the third time.

Mr. McKELLAR. Very well.

Mr. BRUCE. My comparisons have always been between the years subsequent to the enactment of the Volstead Act.

Mr. McKELLAR. I modify my statement so as to make it since the year 1920 down to date. The report I have from the chief of police at Knoxville would appear to verify that conclusion of the Senator from Maryland, but only a day or two ago I received from the police judge of Knoxville, Judge Robert P. Williams, a statement on this subject which wholly contradicts the report. Judge Williams says:

> Starting early in life as a newsboy, and afterwards serving as reporter to daily papers and reporting news from the Supreme Court on down, being police reporter for 20 years and municipal judge for 7, has thrown me in a position to study the situation from its closest angle. Some of the clergy are taking the stand that a large number of arrests for drunkenness are due to prohibition, and are asking that the Volstead Act be repealed. The press in some cities is supporting the move. In my own city some are comparing arrests made in years gone by with those of the present day. The comparison is not fair. There were fewer arrests before the Volstead Act, but the reason is that in those days men who drank whisky were not arrested until they were drunk and down. Those who sold whisky provided places for their customers who took too much. Often a cab was called and the intoxicated man sent home or to a hotel.

And I stop here long enough to say that it is the common knowledge of every one of us that that is correct.

Mr. BRUCE. Mr. President, just one more interruption.

The PRESIDING OFFICER. Does the Senator from Tennessee further yield to the Senator from Maryland?

Mr. McKELLAR. I yield.

Mr. BRUCE. Of course, that idea is advanced very often, but it is totally disproved by the experience of such a city as Baltimore. The commissioner of police in Baltimore—a most efficient officer—told me just a month or so ago that the instructions he gives to policemen in Baltimore with relation to the arrest of persons for drunkenness are exactly the same instructions as those that were given to them before the adoption of the eighteenth amendment and the enactment of the Volstead Act. Those instructions were that if a man was seen drunk on the street by a policeman, and he was simply under the weather, or less than half-seas-over, and could get home without any loss of life or limb or without any positively disorderly conduct, then he was not to be arrested. Those were the instructions delivered to our policemen before the enactment of the Volstead Act, and those are the instructions in force to-day.

Baltimore City, like every other city in the Union, including Memphis and Knoxville, has witnessed a steady and a progressive increase in the number of arrests for drunkenness since the enactment of the Volstead Act.

Of course, nobody who knows our police in Baltimore city, how freely they share the free spirit of our people, how little they are prejudiced in favor of prohibition, would doubt for a moment that while they do their duty, and do it faithfully, they are not any quicker or more inclined to arrest a drunken man than they were before the enactment of the Volstead Act.

Yet in the city of Baltimore, too, where public sentiment is overwhelmingly against the eighteenth amendment and the Volstead Act, we have the same pathetic, lamentable, tragic increase in the number of arrests for drunkenness from year to year.

Mr. McKELLAR. In reply to that, I just want to read a communication. I sent this very list of questions to the chief of police of Baltimore, and he answers:

I beg to acknowledge receipt of your letter of the 13th instant, and in response thereto I am noting in numerical order replies to the several queries made by you apropos of the prohibition laws and their enforcement in this city.

First, in the year 1912 there were arrested 5,206 and in 1924, 6,029.

My second question was whether there was a local law authorizing the police to arrest for drunkenness. To that he answered, "Yes."

My third question was, "In your judgment, was more liquor drunk in Baltimore in 1912 than in 1924?"

To that he answered, "Yes."

The fourth question was whether drinking had increased, and the amount of increase, in his judgment. He did not answer that.

The next question he did not answer.

In answer to the seventh question he said that the arrests of men and women in 1912 were 1,555; in 1924 they were 3,017.

Mr. BRUCE. Mr. President, the Senator has certainly gotten his figures lamentably mixed up. I have before me a table furnished me by the police commissioner of Baltimore city.

Mr. McKELLAR. I am just reading this letter.

Mr. BRUCE. If the Senator will allow me——

Mr. McKELLAR. Oh, no. I know the Senator wants to be fair about this.

Mr. BRUCE. Absolutely. I can afford to be, my cause is so strong.

Mr. McKELLAR. I am glad the Senator feels that way about it. The next answer was:

Little difference, if any, noted in the matter of preserving order in the year 1924 and the year 1912.

Then he goes on to say:

For your information, I respectfully call your attention to the fact that the Legislature of the State of Maryland has not passed an enforcement law for violating the Volstead Act.

Mr. BRUCE. And never will.

Mr. McKELLAR. Well, I do not know about that. I think it will. I differ with the Senator about his own State. I do not believe that any State in this land will long continue violating the laws and the Constitution of the country. He continues:

Therefore, following an opinion rendered by the attorney general, this department does not attempt to enforce or make arrests for violation of the said Volstead Act.

There is a condition of lawlessness there.

However, if called upon by members of the Prohibition Enforcement Unit when making raids, and so forth, officers from this department are sent to accompany such members to prevent interference with the Federal officers, but they do not take any part in the raids.

Mr. BRUCE. Let me read some absolutely authentic figures——

Mr. McKELLAR. This is signed by George C. Henry, chief of inspectors. Is he a reputable man?

Mr. BRUCE. All the members of our police force are.

Mr. McKELLAR. Is he an honest man?

Mr. BRUCE. Yes.

Mr. McKELLAR. Does he tell the truth?

Mr. BRUCE. I have no reason to believe the contrary.

Mr. McKELLAR. Then, there is his letter, and I offer it.

Mr. BRUCE. I think he will compare favorably even with any Senator in that respect.

Mr. McKELLAR. I have no doubt of it. I ask that this letter and letters from other chiefs of police be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

[See Exhibit A to Mr. McKELLAR's remarks.]

Mr. BRUCE. The statistics given to me by the police chief of Baltimore city are as follows. Of course, my comparison is always between years subsequent to the enactment of the Volstead Act. There is no profit in going back to a period antedating the passage of that act.

Mr. McKELLAR. No; the figures would be disconcerting to the Senator if he did.

Mr. BRUCE. Not in the slightest. Surely the machinery of oppression which the Federal Government has put into force would be contemptible in the last degree if it had not worked some change in conditions.

Mr. McKELLAR. Does the Senator mean to contend that when a constitutional amendment has been adopted, and Congress has enacted a constitutional prohibition law to enforce that constitutional amendment, that is an act of oppression? The Senator has just said it was.

Mr. BRUCE. There is not a sterner stickler in the land for the enforcement of law than I am.

Mr. McKELLAR. The Senator does not talk like it on the floor.

Mr. BRUCE. In the city of Baltimore we have two Federal judges as upright and able as can be found in this country, and rigid and stern judges, too, and I honor them for the scrupulous fidelity with which they have enforced the prohibition law, as well as all other laws.

Now let me get back to the statistics, because I am not going to be led away from that trail if I can help it. The police commissioner for Baltimore city gave me these figures. In 1920 the number of arrests for drunkenness in Baltimore were 1,785. In 1921 they were 3,258. In 1922 they were 4,955. In 1923 they were 6,235. In 1924 they were 6,029, or more than in 1912, before the adoption of the eighteenth amendment.

Mr. McKELLAR. If the Senator will permit me, I will continue to read Judge Williams's letter, which refutes the same sort of statistics which were put in the RECORD not long ago as to the city of Knoxville, taking up the letter where I was interrupted. He said:

Since the war the police departments have adopted much of the red tape of the Army records, making the arrests appear much greater than formerly. The police make a report of every arrest, and this report is checked against the number of arrests made in order to see if they are doing their duty in making full reports. In my own county I have seen five warrants for one arrest, and perhaps the person was guilty of only one offense. Another reason why the number shows up large is that a bootlegger will not allow the party purchasing liquor from him to stay around his place. Officers now are more alert. If they smell liquor on his breath, some will arrest him to see if he has any in his pocket and thus get a possession or transporting case against him.

This letter was sent to me by Judge Williams, without request from me.

Mr. BRUCE. Mr. President, will the Senator yield?

Mr. McKELLAR. I will in a moment. In the city of Knoxville, a city certainly as well governed and as orderly a city as there is in the country, in my judgment, in a city where I have seen no drunkenness since the national prohibition law went into effect, is a judge who in his statement refutes absolutely figures that have been presented here before.

Mr. BRUCE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maryland?

Mr. McKELLAR. I yield only for a question, because I want to get through this afternoon. I hope the Senator will ask me a question and not make a speech in my time. I want to be very courteous to the Senator.

Mr. BRUCE. Here is a judge in Knoxville who gives this roseate picture of social conditions——

Mr. McKELLAR. He is telling the facts.

Mr. BRUCE. And here is this other public authority who writes to me that in 1924 in this city, where the Senator from Tennessee has never been able to discern a drunken man, 4,456 persons were arrested for drunkenness for the year 1924.

Mr. McKELLAR. I do not live in that city. I have no doubt there are violations in the city. But we have laws against murder. Would the Senator repeal the laws against murder because people are murdered in his city almost every day? Does he contend that we should not have a law where there is a violation of it?

The Senator can not possibly take a position like that. We have laws against stealing, against larceny. Would the Senator repeal such laws because there are thousands of people who steal every day. Would he repeal the laws against burglary because we have burglars who do their nefarious work, largely in the nighttime, in every city in the land?

Mr. BRUCE. No——

Mr. McKELLAR. Would he repeal all laws that are violated? If we should, we would not have any law. We will relapse to barbarism. I say that the prohibition law is being better enforced every day, and instead of people becoming dissatisfied with it, I believe that if it were submitted to a vote of the people in the land, the majority would be more enormous than ever before in favor of it.

Mr. BRUCE. In connection with the arrests for drunkenness, there is just another thing that I would like to bring to the attention of the Senator from Tennessee, who has been very considerate, indeed, in allowing me to interrupt him.

Mr. McKELLAR. I am very happy to do so.

Mr. BRUCE. Of course, under the old saloon conditions, a man was likely to get drunk at the corner saloon and then go staggering home and be arrested by the police on the way. Drunkenness was visible then, highly visible.

Mr. McKELLAR. Men drank more then, the Senator means to say.

Mr. BRUCE. No; I did not say that.

Mr. McKELLAR. One can not get drunk unless he drinks more, and it can not be visible unless people drink more.

Mr. BRUCE. Drunkenness had a much higher degree of visibility then. That is the point I want to make.

Mr. McKELLAR. It was more dignified and more honorable in the old days.

Mr. BRUCE. Now, a man buys his bootleg liquor and is likely to go home and get drunk under his own rooftree, where he is never visible to the police at all.

Mr. BROUSSARD. Mr. President, may I ask the Senator from Tennessee a question?

Mr. McKELLAR. I yield.

Mr. BROUSSARD. Was the letter the Senator read from a Federal judge?

Mr. McKELLAR. No; and I am glad the Senator reminded me of that. This letter is from a municipal judge, who attends to the police business in Knoxville. But I want to say right here now, since the Senator has suggested the matter of Federal judges, that I wrote a letter a short time ago to the Federal judges of the land; not all of them—I do not remember how many there are—but I think I wrote 26 letters to Federal judges throughout the land. It has been charged on this floor time and again in the last few months, charged in the public press, and charged in the House of Representatives, that the courts were cluttered up, were glutted, that they were all behind, that litigants in other matters could not get a fair show, that our courts were going to the demnition bow wows because the prohibition laws were taking up all the time of the judges.

I wrote 26 letters, and I have 18 replies from men who are as honorable as are to be found anywhere in the country. The Senator from New Jersey [Mr. EDWARDS] smiles. My recollection is that one of the replies was from a judge in his State. There was one from a Federal judge in Baltimore, and there is one from almost every section of the country. With two exceptions that I remember, they are practically all up with their dockets, and they all say they are capable of enforcing the law.

Mr. BRUCE rose.

Mr. McKELLAR. I want to say to the Senator from Maryland, before he interrupts, that the one complaint, as I recall, or the chief complaint, I will put it, that the Federal judge in Baltimore had to make was that they needed another judge there for the general business, and he said there was a bill now before the Congress, and he hoped that it would be passed, and I hope it will be passed.

Mr. BRUCE. I introduced a bill only two or three days ago for the appointment of another judge for Maryland.

Mr. McKELLAR. I will help the Senator pass it.

Mr. BRUCE. The need for that judgeship is occasioned by the swelling increase in the number of convictions under the Volstead Act.

Mr. McKELLAR. The judge in Baltimore does not so put it, and I call attention to his letter that will appear in the RECORD to-morrow.

At this point I ask unanimous consent that at the conclusion of my remarks, just after the letters from the chiefs of police and the replies thereto, I may insert the letter which I wrote to the several judges, and the 18 replies that I received from Federal judges throughout the country. As I remember, the one in Minnesota and the one in Buffalo were slightly behind with their dockets due to insufficient help or an insufficient number of judges to some extent, and to some extent in their opinion due to the prohibition law. As to all the rest or most of them, it will be seen that the judges are not complaining of the prohibition law, but are doing their duty and trying to enforce the law.

I digress here long enough to say that in my judgment the Federal judges upon whom has been devolved the duty of enforcing the prohibition law are doing their best, and if Congress would let them alone and give them a fair show, it would not be long before the prohibition laws would be enforced as well as the other laws.

The PRESIDING OFFICER. Without objection, the request of the Senator to insert the material at the point requested will be granted.

(See Exhibit B to Mr. McKELLAR'S remarks.)

Mr. BRUCE, Mr. BROUSSARD, and Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Tennessee yield, and if so, to whom?

Mr. McKELLAR. I yield first to the Senator from Louisiana.

Mr. BROUSSARD. I wish to say to the Senator from Tennessee that about two weeks ago I inserted in the RECORD statistics furnished by Chief Director Jones stationed at Washington. He is the head of the bureau.

Mr. McKELLAR. The Senator knows what is said about statistics.

Mr. BROUSSARD. If the Senator does not want to permit me to ask a question——

Mr. McKELLAR. I beg the Senator's pardon.

Mr. BROUSSARD. I notice that the Senator does not want to allow me to ask a question. Does he want to get the facts in the RECORD?

Mr. McKELLAR. I shall be very glad.

Mr. BROUSSARD. The Senator certainly does not seem to indicate any such desire.

Mr. McKELLAR. I beg the Senator's pardon. I did not intend to cut him off in any way. I was just making a facetious remark or suggestion. If the Senator does not desire to proceed, I will yield now to the Senator from Maryland.

Mr. BRUCE. I have no fault to find whatever with the courtesy of the Senator from Tennessee.

Mr. McKELLAR. I am sure I did not mean to be in the slightest degree discourteous to the Senator from Maryland.

Mr. BRUCE. I simply want to say that as I remember at this moment—and if I am wrong I will correct the figures—in 1922 the number of convictions for violation of the Volstead Act in the Federal courts of Maryland was about 400. Last year they were about 1,100.

Mr. McKELLAR. That shows they are enforcing the law even in Maryland, and it is surprising in view of the fact that the State of Maryland does not have an enforcement law and will not enact an enforcement law, although I hope she may do so. I think it is very necessary that the State of Maryland should help the Federal Government to enforce the prohibition laws, as they do in all the other States except one or two.

Mr. BRUCE. I thank the Senator from Tennessee. I will pass that suggestion on to the officials of Maryland.

Mr. McKELLAR. Then I hope it may do some good.

Mr. EDWARDS. Mr. President, may I ask the Senator which are the one or two States to which he referred?

Mr. McKELLAR. I think one is Maryland and the other New York. How many more there are, I do not know.

Mr. EDWARDS. I do not know of any.

Mr. McKELLAR. I imagine that Connecticut and Rhode Island, which never ratified the eighteenth amendment at all, perhaps have no State enforcement laws.

Mr. EDWARDS. I think they have.

Mr. McKELLAR. That is to their very great credit. That means that even though they did not approve of the eighteenth amendment, yet after it is passed like good American citizens they were willing to obey the law and to help the Federal enforcement officers enforce the law.

Mr. EDWARDS. In other words, the Senator means that they were willing to try it and see if it would be effective, and they have decided that it is not effective.

Mr. McKELLAR. I have not seen that decision. There can be but one decision on the subject and that is by the Congress.

Mr. EDWARDS. Oh, no. That is a question before the people of the United States.

Mr. McKELLAR. I may be mistaken, but I think I am right.

Mr. BRUCE. I will say to the Senator from Tennessee that my attention was called a few days ago to a statement by one of the United States district attorneys in the State of New Jersey, where they have an enforcement law, that now 90 per cent of all the criminal cases that are tried in the State of New Jersey arise under the Volstead Act.

Mr. McKELLAR. If I were not afraid that my beloved friend from New Jersey would get angry with me——

Mr. EDWARDS. Oh, no; not at all.

Mr. McKELLAR. He is one of the finest men in the world and never touches a drop himself. He is as dry as the desert of Sahara and yet he votes wet. If I were not afraid he would get a little angry with me, I would say that it is because of his well-known view that he wants New Jersey to be as wet as the ocean.

Mr. EDWARDS. May I ask the Senator if it is not that wet?

Mr. McKELLAR. Not quite. I hope it never will be.

Mr. BROUSSARD rose.

Mr. McKELLAR. I will yield to the Senator from Louisiana if he wishes to interrupt me?

Mr. BROUSSARD. Provided the Senator does not interrupt me before I complete my question.

Mr. McKELLAR. I will try not to do so.

Mr. BROUSSARD. I was referring to the statistics. I have sent for them and intend to insert them in the RECORD. I obtained them from Chief Director Jones, showing not only that arrests for drunkenness have increased since 1920 but that the number of convictions has increased and the number of pending cases has increased throughout the United States. What I wanted to come back to when the Senator diverted me was to inquire whether the letter to which he referred was from a Federal or a municipal judge?

Mr. McKELLAR. It was from a municipal judge.

Mr. BROUSSARD. I understood the Senator to read the last words to the effect that at this time if a policeman or officer smells liquor on a man's breath he searches his person.

Mr. McKELLAR. No; I do not think he goes quite that far. He said:

If they smell liquor on his breath, some will arrest him and see if he has any in his pocket, and then get a warrant for possession or transporting against him.

Mr. BROUSSARD. I wanted to call the Senator's attention to the statement he made a little while ago about the fourth and fifth amendments to the Constitution being observed.

Mr. McKELLAR. I do not agree with the Senator about that for the reason that if a policeman smells liquor on the breath of a man and arrests him and after arresting him searches him and finds that he has liquor on his person and had been transporting it, in my opinion that is not a violation of law on the part of the policeman. If it were a violation of the law, it would be the easiest thing in the world to determine. I am not passing on the question myself because I never have practiced criminal law and do not know very much about it, but I have some doubts about whether it would be a violation of the law.

Mr. President, still referring for just a moment more to my own State, in the country portions of the State the conditions as to prohibition, of course, are much better. There are moonshiners and illicit stills to be found there now, but they are inconsequential in comparison with those found in preprohibition days. I am familiar with every part of my State. I have gone into every county. I know the people. I know the conditions that exist in the great cities. I was familiar with conditions before prohibition, and I am familiar with the conditions since prohibition, and I have not the slightest doubt, as I stated once before on this floor, that there is not one-tenth as much liquor drunk in my State as there was before prohibition. I believe the proportion is much less than this figure. Nor is there the slightest doubt of a marvelous improvement in every condition and affair of life in our State since we have had prohibition. Our schools are infinitely better. Our schoolhouses enormously increased in numbers, in comfort, and in size; schools are better attended; our churches are better attended; our laws are better enforced; all classes of our people are more prosperous. The colored people in my State have been infinitely benefited by prohibition; the laboring people of my State have likewise been infinitely benefited by prohibition; the manufacturers of my State have been tremendously benefited; savings-bank deposits have been enormously increased; homes owned by small home owners have been enormously increased. There are countless thousands of laboring men in Tennessee who formerly had to tramp to and fro from their work and who now come and go in automobiles. Thousands of farmers who either walked or rode mules or in the most primitive wagons now go and come in automobiles. Public busses gather up the children in country districts and take them to school. Our lands are more valuable; our farms are better tilled; our mines are better worked; our factories are better conducted; and all classes of laboring people get more for their toil. The money that formerly went to the saloon is now going into homes, into schoolbooks for children, to the payment of church dues, for clothing for families, in automobiles, into the improvement of the inside of homes, for radio sets and Victrolas in homes, and countless numbers of necessities and luxuries which many of our people did not have in the old days of the saloon, for then their money went for liquors. Many people who formerly spent their evenings and nights in saloons now spend the evenings at home with their families or with them in picture shows where their education is widened and where they receive a quiet, amusing, and interesting and improving surcease from daily toil. Prohibition in Tennessee has been a great success, and we are enforcing the law better and better all the time.

DRINKING IN THE UNITED STATES

But it is said that the American people are drinking just as much as ever before. This statement is absolutely without foundation. There is not a word of truth in it. The facts and figures wholly disprove the statement. Besides this, there is not any fair-minded man who can truthfully say he believes there is as much drinking now as there was in the old days of the saloon. I served in the House in Washington from 1911 to 1917, during which time the saloons were open in the city of Washington. I was familiar then with the habits of Congressmen and Senators, and I dare say that there is not one-tenth—I do not believe one twenty-fifth—as much drinking among Congressmen and Senators now as there was then. I do not believe there is one-tenth as much drinking in the city of Washington now as there was then.

In the Washington Post of December 12, 1925, Mr. George Rothwell Brown, one of the ablest newspaper men in the city of Washington, a man who has lived long here and has had a wonderful experience—one of the most delightful and entertaining paragraphers I have ever read after; I read his column on the front page of the Post the first thing every morning—had this to say:

The distinguished Senators who so earnestly contend that there is more drinking in Washington to-day than there used to be in the "good old days" before prohibition are doubtless newcomers, who don't remember when, back in Reed's time, there was a bar under the House of Representatives, when gentlemen drank their way up the Avenue every afternoon from Brock's to Shoemaker's, stopped in for a moment at the old Willard bar for Tom Ochiltree's latest story and a cocktail, dined with Sam Ward, topped off the evening at John Chamberlin's, and went home at 2 a. m. in open-faced hacks with both feet out of the windows. They don't remember "Rum Row" and "Sawdust Hall," the race-track crowd that flocked back from St. Asaph's for a little refreshment at Hancock's every evening, the foaming steins in the old Lawrence beer garden, the post-graduate course at the University of Gerstenberg, and the nightcap at the old Owen House. More drinking in Washington now! Shades of Count Perreard!

Mr. Brown, of course, is right. And his opinion is absolutely substantiated by the facts.

Mr. President, at this point I ask to have printed as a part of my remarks a letter from Major Hesse, superintendent of the Metropolitan police force of the District of Columbia, which further proves my contention.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT,
Washington, D. C., February 17, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

DEAR SENATOR MCKELLAR: Inclosed herewith please find answers to your letter of the 13th instant.

With best wishes,

Very truly yours,

EDWIN B. HESSE,
Major and Superintendent.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE, *Washington, D. C.*

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement, in so far as they affect your city.

How many arrests for drunkenness were there in Washington in 1912 and how many for 1924?—Answer. Arrests 1912, 3,623; 1924, 9,149.

In 1912 was there a local law authorizing the police to arrest for drunkenness alone?—Answer. No. The law providing penalty for intoxication became effective July 1, 1913. Persons in 1912, who were arrested on charge of intoxication, were released when able to care for themselves.

Was there such a law in 1924?—Answer. Yes.

In your judgment, were more liquors drunk in Washington in 1912 than in 1924?—Answer. Yes.

If drinking has increased, state the amount of increase, in your judgment.—Answer. See above.

If drinking has decreased, state the amount of decrease, in your judgment.—Answer. Any statement as to the amount would be a mere guess, but am convinced that decrease is considerable.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924?—Answer. No law in 1912. Information as to convictions in 1924 can only be obtained from the police court.

In your judgment, were as many people seen drunk on the streets of Washington in 1924 as in 1912?—Answer. No.

What was the total aggregate amount of fines imposed for drunkenness in Washington in 1912 and what was the amount in 1924?—Answer. Information can only be obtained by addressing clerk of police court.

In your judgment, was one-tenth as much liquor consumed in Washington in 1924 as in 1912, when all the saloons were open and running all day and much of the night? Answer. In my opinion, no; but it would be extremely difficult to determine.

Were you able to preserve order in the city of Washington better in 1924 than it was preserved in 1912, when all the saloons were open? Answer. While I do not think so, it is a question which, in my mind, should be more specific.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

Mr. BRUCE. Mr. President——

Mr. McKELLAR. I yield to the Senator from Maryland.

Mr. BRUCE. The Senator from Tennessee has again gone back to the anteprohibition period.

Mr. McKELLAR. That is what I intended to do.

Mr. BRUCE. I will bring him to earth again. The contrast upon which I insist is the contrast between the years which have elapsed since the enactment of the Volstead law.

Mr. McKELLAR. I am trying to bring the Senator back to water, not to earth.

Mr. BRUCE. Here are the statistics with reference to arrests for drunkenness in Washington. In 1920 there were 5,415; in 1921 there were 6,370——

Mr. McKELLAR. Just a moment.

Mr. BRUCE. Is not the Senator going to permit me to interrupt him? I thought he yielded to me.

Mr. McKELLAR. I did. I am putting my statistics in the RECORD as an exhibit to what I am saying. I am not reading them. I am doing that for the purpose of saving time. I want to ask the Senator if he will not put his statistics in the RECORD in the same way and at the same place in the RECORD to refute, if they do refute, what I have placed in the RECORD?

Mr. BRUCE. The Senator's statistics are voluminous.

Mr. McKELLAR. They are not as voluminous as those of the Senator from Maryland.

Mr. BRUCE. My statistics are luminous. [Laughter.]

Mr. McKELLAR. I will yield to the Senator to state what he wishes.

Mr. BRUCE. As I said, the number of arrests for drunkenness in Washington in 1920 were 5,315; in 1921, 6,375; in 1922, 8,368; in 1923, 8,128; in 1924, 10,354; and in 1925 upward of 11,000.

Mr. McKELLAR. Mr. President, all I can say about it is that I think any man, I do not care who he is, who has lived in Washington before prohibition days and since prohibition days knows that there is not one-tenth as much liquor drunk here now as then.

I wish to say further that, so far as arrests are concerned, it may be the officers are enforcing the law better. There have been violations of the prohibition law here in the city of Washington, but I hope that the law is being better enforced; I believe it is being better enforced. I want to congratulate the authorities on the better enforcement of the laws. Instead of discrediting the cause of prohibition, even the figures which the Senator from Maryland [Mr. BRUCE] has produced go to prove that we are better enforcing the law all the time.

STATISTICS SHOW LESS LIQUOR DRUNK

Statistics taken from Government reports show, beyond question, that there could not be as much drunk now as formerly. I herewith give these statistics as they have been furnished me.

Mr. President, I intended to ask that these statistics be merely put in the RECORD without reading, but inasmuch as the Senator from Maryland has put in the figures that he has in my speech I am going to read these figures. They are not very long. I do that for another reason. The Senator from Maryland has offered those same figures, I am quite sure, three times, whenever I have been on the floor and have discussed this subject; and I think we ought to have figures about which there can not be any doubt.

Before prohibition the national drink consumption was mounting yearly. In 1917, the last year of comparatively unrestricted sale under license, according to the United States Statistical Abstract, 1922, page 697, we consumed 42,723,376 gallons of wine, 1,885,071,304 gallons of malt liquors, and 167,740,325 gallons of distilled spirits. These wines contained over 6,500,000 gallons of pure alcohol, the dry wines ranging from 12 to 14 per cent and the port and sherry from 12 to 24 per cent alcohol. The distilled spirits contained 83,870,000 gallons of pure alcohol. The malt liquors contained 75,402,852 gallons of pure alcohol. This makes a total beverage consumption of pure alcohol in 1917 of 165,772,000 gallons. Those who maintain that the Nation is drinking as much as ever must show where such a quantity of alcohol is obtainable illicitly to-day. Probably the highest estimate of diverted alcohol claimed that 90,000,000 gallons of hard liquor or 55,000,000 gallons of pure alcohol was entering bootleg channels, and this estimate was based on a misconstruction of alcohol withdrawals.

Withdrawals of tax-free alcohol increased from 22,388,000 wine gallons in 1921 to 81,808,000 gallons in 1925. Of that total production of denatured alcohol 46,983,969 gallons were completely denatured. To redistill this alcohol would be impracticable, if not impossible. It was not a source of illicit beverage liquor. The consumption of this completely denatured alcohol can practically all be accounted for legitimately. As far back as 1917 and 1916 the annual use of completely denatured alcohol was over 10,000,000 gallons per year. Since then the winter use of the automobile and the motor truck has developed. Little alcohol was used in auto radiators seven or eight years ago. The increased consumption of completely denatured alcohol has kept pace with the increased registration of motor vehicles. In 1924 it is estimated that the average automobile used 2 quarts of antifreezing solution per month during the freezing periods in those States where the temperature falls below the freezing point. Under the Department of Agriculture figures on the months of freezing weather in each State the 17,591,981 autos registered in 1924 consumed 32,443,836 gallons of completely denatured alcohol. The auto registration in 1925 was over 20,000,000, requiring over 37,000,000 gallons of completely denatured alcohol. This, plus the 10,000,000 gallons used annually in 1917 or 1918 for other legitimate purposes, accounts for the entire production of completely denatured alcohol in the last fiscal year—46,983,969 gallons.

Such diversions as occur are in the specially denatured groups. Specially denatured-alcohol production in 1925 was 34,828,303 gallons. Scores of industrial uses which were nonexistent five years ago use most of this alcohol. Henry Ford draws 75,000 to 100,000 gallons each month for the manufacture of artificial leather. Artificial-silk makers consume large quantities. Over 24,000,000 gallons of this specially denatured alcohol is not redistillable. Only 11,000,000 can be made potable cheaply and practically. This is far less than the amount of potential supply for beverage use through diversions in 1922, when 12,000,000 gallons of potable alcohol was withdrawn. Such withdrawals were reduced in 1925 to 4,500,000 gallons, a decrease of 7,500,000 in that period. While it is possible that some of that alcohol was diverted, no one asserts that all or a considerable quantity was.

Mr. President, I ask that as a part of my remarks I may print the remainder of the statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Of the 11,000,000 gallons of redistillable denatured alcohol released in 1925 it is possible that half may have been diverted to the illicit trade. Doctor Doran, of the Prohibition Unit, so testified before a committee of Congress last year. If 6,000,000 gallons were diverted, this would have furnished 12,000,000 to 15,000,000 gallons of illicit liquor. Seizures by Federal officers account for 1,102,787 gallons of spirits and 569,921 gallons of wine. Seizures by State and local enforcement officers will account for at least as much, if not several times this total. The remainder, available to the bootlegger's customer, would not make a very large drop in the prohibition glass.

The moonshining output is grossly overestimated. Seizures of stills with a capacity of several hundred gallons are quoted sometimes as evidence of the magnitude of illicit distilling. These stills are few. Their output is small. Those who estimate illicit-liquor production in terms of millions of gallons do not realize that a million gallons of liquor would mean from 130 to 140 carloads. Ninety times that sum would mean a quantity which would create a troublesome transportation problem, even if it did not have to be moved clandestinely.

The activities of the Coast Guard have eliminated Rum Row as an important factor in the illicit liquor supply. From over 300 vessels that hovered off the coast the row has been reduced to an occasional vessel or two. Captures of small boats plying between the supply ship and the shore have aided in this reduction. Cooperation between Canadian and United States officials has checked the flow of liquor over this border. Few of the most ardent wets to-day claim that smuggling liquors play any prominent part in the enforcement problem.

The per capita consumption of liquors of all kinds before prohibition was estimated (by the United States Statistical Abstract) at 20.2 gallons per year. This estimate made no allowance for any teetotalers. It has been frequently claimed that there were 20,000,000 adult drinkers before prohibition. On that basis the per capita allowance of liquors was 108.7 gallons per year.

If the 20,000,000 former drinkers are still unreformed, the 15,000,000 gallons of possible liquor made from diverted alcohol, plus an unverified 10,000,000 gallons from smuggled supplies or moonshine sources, would give each of the old-time drinkers 5 quarts per year, in place of the former 108.7 gallons. If, on the other hand, there are remaining to-day only 2,500,000 drinkers, occasional as well as steady, there would be 10 gallons apiece for them each year, or a little over a pint and a half of liquor a week.

The decrease in consumption is probably greater than this. Besides the license liquor sold in 177,790 saloons, there were the illicit liquors distilled by moonshiners and the "split" by which liquors were adulterated to two or three times their original quantity. Charles D. Howard, chemist of the New Hampshire State Board of Health, some time ago declared that "probably as much as 90 per cent, if not more, of the whisky and gin as sold by the glass over the bar of the common saloon in preprohibition days was synthetic either wholly or mostly." No one knows exactly how much intoxicating liquor the Nation consumed before prohibition. It is certain, however, that it was much more than the total reported by the Internal Revenue Bureau figures.

Mr. McKELLAR. Mr. President, it seems that the British ambassador was called on in 1923 for a memorandum on the subject of the effects of prohibition in the United States. Ambassador Geddes furnished that report. He reported that the amount of intoxicating liquor now consumed on a 100 per cent basis of that consumed formerly was indicated by reports from three sources—the Anti-Saloon League, the Association Against the Prohibition Amendment, and the Federal Prohibition Unit of the Treasury. The Anti-Saloon League said that 20 per cent as much whisky was now consumed as before; the Federal Prohibition Unit said 20 per cent, the Association Against the Prohibition Amendment said 66 per cent. Ambassador Geddes then says:

Prohibition of intoxicating liquor has on the whole been effective in the rural districts and in the smaller towns throughout the country. It is less effective on the eastern seaboard and in the vicinity of the Great Lakes, where powerful organizations of liquor smugglers succeed in effecting a regular traffic in imported intoxicants.

Large quantities of homemade liquor are also brewed, but it has proved to be poisonous in many cases, and the practice is reported to be on the decrease. According to opinions given by the Association Against the Prohibition Amendment, the fact that the consumption of intoxicating liquor is illegal has in itself been sufficient to lead many Americans who formerly drank little or nothing to conform to a fashionable habit at social gatherings of carrying small pocket flasks of home-brewed or imported spirits.

Ambassador Geddes also showed two different opinions in reference to arrests for drunkenness, the Anti-Saloon League and the Federal Prohibition Unit claiming there was only 50 per cent as many arrested for drunkenness and the Association Against the Prohibition Amendment claiming there was just as many. As to deaths from alcoholism, these three institutions again varied, the Anti-Saloon League and the Prohibition Unit claiming only 20 per cent and the Association Against the Prohibition Amendment claiming there were five times as many. But the ambassador then gives the figures and shows that the death rate has been almost constantly decreasing. The ambassador thus concludes:

Since the adoption of prohibition a marked increase, which is computed at 40 per cent, has taken place in the amount of deposits in savings banks. The supporters of prohibition in the United States claim that the average wage earner now has considerably more money to spend on the education of his children, on the furnishing of his home, on dress, sports, and amusements. They also affirm that prohibition has caused increased production in the factories and that many employees who in former days absented themselves regularly on the Monday and even on the Tuesday of each week now work a full six-day week. So many other factors have contributed to restore economic conditions in the United States since the war that it is almost impossible to form any estimate of the extent to which prohibition has contributed to this recovery or otherwise.

I think these views of the ambassador are exceedingly important, as showing a foreign view, though, as Great Britain is not a prohibition country, it might not be a wholly disinterested view.

PROHIBITION IN THE WORKINGMAN'S HOME

Mr. President, recently the National Conference of Social Work sent a questionnaire to 2,700 members. This questionnaire yielded only a 10 per cent return, but the results of the questionnaire are interesting. I here quote them:

1. The effect of prohibition on the homes of working people

Furnishing of homes:	
Better	203
Worse	6
No change	24
Answers blank	35
Do wives and families get larger or smaller proportion of husband's income?	
Larger	203
Smaller	7
No change	21
Answers blank	37
Marital relation:	
Improved	165
Worse	17
No change	23
Answers blank	64
Sanitary and health conditions in homes:	
Better	182
Worse	5
No change	31
Answers blank	51
Mental health of the homes, as shown by better family cooperation, respect of children for parents and of parents for children, and by higher educational ideals:	
Better	152
Worse	25
No change	30
Answers blank	42

I call especial attention to the following. I hope that the fathers of the country may read this and that the mothers of the country also may read it:

2. The effect of prohibition on the community as regards industrial, social, and moral conditions

Children's delinquency:	
Increasing	63
Decreasing	81
No change	38
Answers blank	85
Drinking by young people as compared with preprohibition times:	
More	109
Less	95
No change	10
Answers blank	50
Cases of malnutrition among children under 15:	
Increased	25
Decreased	107
Remained unchanged	55
Answers blank	102
Attitude toward law enforcement and respect for laws in general:	
Better	66
Worse	139
Unchanged	24
Answers blank	40
Liquors for minors:	
More accessible	66
Less accessible	130
Unchanged as to accessibility	15
Answers blank	57

COST OF PROHIBITION

Mr. President, when the advocates of liquor run out of every other argument, they tell about the enormous cost of prohibition. This is a myth. As a matter of fact, the net cost of enforcing prohibition is very small. It is true we appropriated $11,000,000 for enforcing the prohibition and narcotic acts, $9,000,000 of which was spent on prohibition enforcement, but we received in fines, which were actually collected and put into the Treasury, $5,769,000, and this $5,000,000 collected in fines does not include the amount of fines collected in State courts where cases were brought by Federal agencies. In Ohio alone there were of these fines $2,000,000 collected, against which the State prohibition department spent $105,000 for enforcement. All States except New York and Maryland collect fines in State courts. So that it is seen that fines collected more than offset the cost of prohibition, and prohibition prosecutions pay their own way.

Mr. BROUSSARD. Mr. President, will the Senator yield?

Mr. McKELLAR. Yes.

Mr. BROUSSARD. Did we not appropriate $25,000,000 this year in the attempt to enforce prohibition?

Mr. McKELLAR. No; we appropriated $11,000,000 to enforce the prohibition and narcotic acts. The Senator is on the Appropriations Committee and will recall the amount.

Mr. BROUSSARD. What about the cost of the activities of the Coast Guard and other agencies?

Mr. McKELLAR. There has been an increase for the Coast Guard. I can not give the Senator the figures.

Mr. BROUSSARD. We are building ships for the Coast Guard a hundred at a time and are spending over $25,000,000 a year in the effort to enforce the prohibition law.

Mr. McKELLAR. Oh, no; the amount is nothing like that much.

PROHIBITION AT A DISADVANTAGE

Mr. President, the truth is and the fact is that the prohibition amendment and laws have had a stormy career. A very

remarkable thing has happened. For 50 years the great forces of temperance in this country, the great forces of law and order and of sobriety in this country, have struggled to make this a dry Nation. In 1919 their hopes were realized. In 1920 the law went into effect and in 1921, just as it was being put into effect, by a strange streak of fortune—if it may be so called—the enforcement of those laws was put into the hands of a man more interested in liquors, more interested in beers, than perhaps any other man in this Republic. It was put in the hands of a man who was the half owner of one of the biggest distilleries in this land. It was put in the hands of a man whose many banks had money invested in or loans made to innumerable distilleries and breweries, and the enforcement laws have been in the hands of that man ever since. That man is the Secretary of the Treasury.

The law of the land prohibits the Secretary of the Treasury from being interested in liquors in any way. The fact that he is interested in liquors disqualifies him from holding that office; and in an attempt to avoid this disqualification Secretary Mellon upon being appointed Secretary, transferred his liquors to a trustee, but this did not change his situation in regard to liquor. He still owned the liquors. He was still the beneficiary of the trust and the trustee was one of his own banks that he controlled. So I say, Mr. President, that the liquor laws have had a difficult time. Is it not a marvelous thing that the temperance people of this country should work for 50 years to have prohibition laws passed, and, after winning their fight, that these laws should be turned over to one of the largest distillers in America, to one more interested in intoxicating liquors than perhaps any other man in the Republic?

I saw by the newspapers some time ago that Mr. Mellon had sold $18,000,000 worth of his liquors. I hope that constituted all. How he sold these liquors without violating the law himself I do not know, but at all events the papers said he sold them. I then expressed the hope, as I now express the hope, that having gotten rid of his liquors the Secretary of the Treasury would be in better position to enforce the liquor laws of the land which were intrusted to him. When he selected General Andrews I thought this was a good sign. I believe General Andrews is a man trying diligently to enforce the liquor laws; but I have observed recently that the Secretary has turned down the recommendations of General Andrews. I regret to see this. I was hoping for better things of the Secretary in his administration of the liquor laws. I hope he will yet change his mind and conclude to uphold General Andrews and law enforcement. I fear, however, Mr. President, it is but another exemplification of the old adage that it is difficult for a shoemaker to change his last. Mr. Mellon has been in the liquor business so long that it is difficult, even after he sells his liquor, to discard his friendly interest in the business.

LAW ENFORCEMENT

Mr. President, in conclusion I want to add a few words about law enforcement. One of the defects in American character, I regret to say, is a lack of respect for law—not only the liquor laws but of all laws. It is a great defect. It is a defect that we could easily cure. There should be some systematic effort to teach respect for law among all our people. It should be taught in our schools and colleges. It should be inculcated in the homes among the children. No effort should be spared to teach the youth of our land to stand by and uphold the laws of our country.

Mr. President, we have a wonderful country. We have a marvellously good Government. Our laws for the most part are good laws. We should uphold these laws. We can not uphold our Government unless we uphold the laws by which that Government is administered.

One more word, Mr. President, and I am through.

A poll is being taken as to the modification or repeal of the liquor law. In this poll it seems that more than half a million votes have been taken. Just what the rules and regulations are I do not know. The poll shows in favor of prohibition only 76,000, in round numbers; for repeal, 186,000; for modification, 263,000. That is a report from one two-hundredth part of the American people. Take my own State: The report is 22 for the prohibition laws, 1 for the repeal of the prohibition laws, 18 for modification. What does that indicate, Mr. President? Not a thing.

I have the utmost respect for all those who differ with me about this matter, for all those who believe in liquor rather than in sobriety. I have no charges of any kind to make; but I want to say to these people that statistics of that sort do not prove anything. There is but one way to prove what is the popular will, and that is the constitutional way. If there are so many people in favor of changing these laws, if the enormous majority that is here mentioned is in favor of modifying or repealing these laws, why is it not reflected in this body and the body at the other end of the Capitol?

Mr. President, Senators talk about the repeal of these laws. Fights about them were conducted in many States at the last election. What happened? Is this body any less dry than it was then? There are just as many Senators here to-day, and, I suspect, just as many House Members who would vote against any modification of the present dry laws as there were last year; and I want to say that in my humble judgment, notwithstanding the publication of these figures, at the end of this year, when another election is held, it will be found that the great body of the Members of the House will be dry, and it will be found that the Members of this body are just as dry as before.

You know, some few people when they talk a great deal make a lot of noise; but when it comes to voting, where the voting counts, we see the result, and that result is reflected in this body. I take it that no man here from a wet State does anything but reflect the views of his State. I take it that no man here from a dry State does anything but reflect the views of his State. We are the representatives of those States. No better judgment can be formed of the public sentiment of this land than from the representatives that they have in this body and the body at the other end of the Capitol.

So, Mr. President, I want to say in all kindness, with all respect to those gentlemen who have a different view of the subject, that in my humble judgment this talk about a repeal or modification of the liquor laws of this country is to a very large degree idle talk, and certainly it will not have fruition at any time in the future, so far as we can determine to-day.

EXHIBIT A

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE,
Jackson, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Jackson in 1906 and how many for 1924? Nineteen hundred and six, 506 drunks; 1924, 185 drunks.

In 1906 was there a local law authorizing the police to arrest for drunkenness alone? No.

Was there such a law in 1924? No.

In your judgment were more liquors drunk in Jackson in 1906 than in 1924? Yes.

If drinking has increased, state the amount of increase, in your judgment. Has not increased.

If drinking has decreased, state the amount of decrease, in your judgment. Decreased about 75 per cent.

What was the number of men and women convicted of drunkenness in 1906 and what was the number in 1924? Five hundred and six in 1906, 185 in 1924.

In your judgment were as many people seen drunk on the streets of Jackson in 1924 as in 1906? No.

What was the total aggregate amount of fines imposed for drunkenness in Jackson in 1906 and what was the amount in 1924? Nineteen hundred and six, $2,530; in 1924, $2,885.

In your judgment, was one-tenth as much liquor consumed in Jackson in 1924 as in 1906, when all the saloons were open and running all day and much of the night? Yes.

Were you able to preserve order in the city of Jackson better in 1924 than it was preserved in 1906, when all the saloons were open? Yes; in my judgment.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE, *Knoxville, Tenn.*

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Knoxville in 1912 and how many for 1924? 1912, 2,072; 1924, 3,516.

In 1912 was there a local law authorizing the police to arrest for drunkenness alone? Yes.

Was there such a law in 1924? Yes.

In your judgment, were more liquors drunk in Knoxville in 1912 than in 1924? Yes; because there was more liquor here.

If drinking has increased, state the amount of increase, in your judgment.

If drinking has decreased, state the amount of decrease, in your judgment. Drinking has decreased, but I am unable to state the amount.

What was the number of men and women convicted of drunkenness in 1912 and what was the number in 1924? I can not give you the correct number. The report is not made for men and women for drunkenness.

In your judgment, were as many people seen drunk on the streets of Knoxville in 1924 as in 1912? I can not say.

What was the total aggregate amount of fines imposed for drunkenness in Knoxville in 1912 and what was the amount in 1924? The report for the police department shows the aggregate of all fines and drunkenness fines are not separate.

In your judgment, was one-tenth as much liquor consumed in Knoxville in 1924 as in 1912, when all the saloons were open and running all day and much of the night? I can not answer this.

Were you able to preserve order in the city of Knoxville better in 1924 than it was preserved in 1912, when all the saloons were open? According to population, we are now able to preserve order as well as in 1912 as far as drunkenness is concerned.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES SENATE,
COMMITTEE ON POST OFFICES AND POST ROADS,
February 13, 1926.

CHIEF OF POLICE,
Nashville, Tenn.

MY DEAR CHIEF: I desire to get some facts about the prohibition laws and their enforcement in so far as they affect your city.

How many arrests for drunkenness were there in Nashville in 1912 and how many for 1924?—Answer. Unable to locate records for 1912. Furnishing records for 1913 instead. For 1913, a total of 2,855. For the year 1924, a total of 3,064.

In 1913 was there a local law authorizing the police to arrest for drunkenness alone?—Answer. There was.

Was there such a law in 1924?—Answer. There was.

In your judgment, were more liquors drunk in Nashville in 1913 than in 1924?—Answer. There was.

If drinking has increased, state the amount of increase, in your judgment.—Answer. I do not think it has increased.

If drinking has decreased, state the amount of decrease, in your judgment.—Answer. I think it has decreased about 30 per cent.

What was the number of men and women convicted of drunkenness in 1913 and what was the number in 1924?—Answer. About 75 per cent of each year. The remainder being released on promises and through sympathy of the court.

In your judgment, were as many people seen drunk on the streets of Nashville in 1924 as in 1913?—Answer. No.

What was the total aggregate amount of fines imposed for drunkenness in Nashville in 1912 and what was the amount in 1924?—Answer. Our records are such that we can not secure these figures.

In your judgment, was one-tenth as much liquor consumed in Nashville in 1924 as in 1912, when all the saloons were open and running all day and much of the night?—Answer. More than one-tenth.

Were you able to preserve order in the city of Nashville better in 1924 than it was preserved in 1913 when all the saloons were open?—Answer. Yes.

If you will just sit down and write in your answers on this letter and return to me in the envelope which I inclose, I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

NASHVILLE, TENN., *February 15, 1926.*

DEAR SENATOR: With reference to these statements, would say that I am sorry the report for 1912 has been misplaced, and I am substituting the figures of report for 1913 instead, and you will note that the number of people arrested for drunkenness in 1924 is more than in 1913, which is attributed largely to the fact that during the time of 1913, when the saloons were allowed to run open and sell whisky, it was legal, and so long as a man was able to go and not molest anyone, he was not arrested, but since the enactment of the prohibition laws, and the State and city laws as well, every man that is found intoxicated on the streets and elsewhere, whether he is able to go or not, is arrested for intoxication, which as you can clearly see, increases the number of arrests for this charge. Comparing the same two conditions, if the people on the streets under the influence of intoxicants were allowed now to go on, as we did allow them to go in the past when open saloons sold whisky legally, the number of arrests would be decreased considerably. Hoping this is satisfactory, and if I can serve you further call upon me, I remain,

Yours truly,

J. W. SMITH, *Chief of Police.*

COUNCIL OF CITY OF KNOXVILLE,
Knoxville, Tenn., March 1, 1926.

Hon. KENNETH MCKELLAR,
Senate Chamber, Washington, D. C.

MY DEAR MCKELLAR: In reply to yours of February 26, where you ask me about the consumption of whisky in Knoxville before prohibition and since, will say that I believe that my position as city judge now and police reporter on the Knoxville Sentinel for 20 years enables me to make a statement that is based upon facts. I can truthfully say that one saloon of the 125 we had in Knoxville sold more liquor in one day than is consumed in the city of Knoxville in a month now.

It is true that they can cite you figures of large numbers of arrests made at the present day, and the small number made in antiprohibition days. As you and every other citizen knows, in the day of the open saloon a man was never arrested for drinking; he had to be drunk and down before being locked up. Knoxville had 125 saloons; they had back rooms and places for the men to stay in and sober up. And if a man's standing was better than some others, a cab was called and he was sent to his home or hotel. But to-day the police will arrest a man if they smell liquor on his breath, hoping they may get a possessing charge against him. In many cases the large number of arrests are based upon the number of warrants or charges made on the police docket against the same man. Only a few days ago I had a man in court charged with being drunk and driving a car. The officer, working under the directions of the director of public safety, swore out four additional warrants, and after hearing the evidence of the case I found the man only guilty of one offense and gave him $50 and bound him to court, which is the highest penalty I can give. But the report from the police department shows five arrests, when only one man was arrested. There are hundreds of similar cases on my docket.

If Senator BRUCE's dead brother was living to-day, he would tell his brother that there is not near the amount of liquor consumed to-day in the city of Knoxville as there was back in the days of the open saloon. As you know, and every other public man knows, there never was a public or private banquet given but what wine or liquor was upon the table.

The great salvation of prohibition is the saving of the working class. The working men of Knoxville divided more than half of their pay envelopes on Saturday afternoons with the saloon keeper. But to-day that money is carried home, and the good wife fills the market basket and clothes the children with it.

At any time I can serve you, command me.

Yours very truly,

[SEAL.] ROBERT P. WILLIAMS,
Municipal Judge.

POLICE DEPARTMENT,
OFFICE OF THE CHIEF INSPECTOR,
Baltimore, Md., February 15, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

DEAR SIR: 1. I beg to acknowledge receipt of your letter of the 13th instant, and in response thereto I am noting below, in numerical order, replies to the several queries made by you apropos of the prohibition laws and their enforcement in this city:

1. Year 1912, 5,206; year 1924, 6,029.
2. Yes.
3. Yes.
4. Yes.
5.
6.
7. Year 1912, 1,555; year 1924, 3,017.
8. Yes.
9. Fines are not segregated.
10. Yes.
11. Little difference, if any, noted in the matter of preserving order in the year 1924 and the year 1912.

2. For your information, I respectfully call your attention to the fact that the Legislature of the State of Maryland has not passed an enforcement law for violating the Volstead Act; therefore, following an opinion rendered by our attorney general, this department does not attempt to enforce or make arrests for violation of the said Volstead Act. However, if called upon by members of the prohibition enforcement units when making raids, etc., officers from this department are sent to accompany such members to prevent interference with the Federal officers, but they do not take any part in the raid.

Respectfully yours,

GEORGE G. HENRY, *Chief Inspector.*

EXHIBIT B

FEBRUARY 27, 1926.

Hon. WILLIAM I. GRUBB,
Birmingham, Ala.

MY DEAR JUDGE GRUBB: Will you kindly advise me how far behind your court is in the cases on its docket? A charge is being made that

the liquor cases prevent the due administration of justice in the Federal courts. Will you kindly advise me if this is true, in whole or in part? If you think it is true in part, will you kindly advise me the extent in which it is true? I will greatly appreciate it.

Very sincerely yours,

KENNETH MCKELLAR.

UNITED STATES DISTRICT COURT,
New York, March 11, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Your letter of February 27, evidently addressed to the various district judges, has been forwarded to me in New York, where I am now holding court.

While I have, of course, heard that the trial of liquor cases has prevented the courts from disposing of their civil dockets in many districts and has thus impeded the due administration of justice in the Federal courts, I am very glad to report that this situation does not seem to exist in the southern district of Ohio. This is primarily due to the fact that we have caught up with our dockets on both the civil and the criminal sides of the court, and we are able to dispose of all criminal cases at the term at which the indictments are returned. We try but few cases both because of the exercise of discretion by the district attorney in indicting only those who are manifestly guilty and because a plea of not guilty does not result in delay but the trial proceeds forthwith.

The enforcement of liquor laws in Ohio is also greatly assisted by a reasonably efficient enforcement of the State law and discouragement by the court of prosecutions for petty offenses (the hip-pocket variety) or mere duplication of prosecutions originally conducted in the State courts. With these two classes of cases excluded, we are able to cope with the greatly increased work.

In other districts in which I have served, notably the middle district of Tennessee, I have found that the congestion of the criminal dockets has been so great as to discourage the court and prevent attention to civil matters. In such districts the adoption of some plan whereby the United States commissioner, or other officer, could assess a fine in the nature of a penalty in all possession and transportation cases would greatly assist the court in bringing its trial docket up to date.

Trusting that this is the information that you desire, I am,

Yours very truly,

SMITH HICKENLOOPER,
United States District Judge, Southern District of Ohio.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT,
Great Falls, Mont., March 6, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Answering your letter, at present writing I am not very much behind with cases on my docket, but at different times in the past the large number of liquor cases have unquestionably delayed consideration of other matters. I worked straight through the summer last year and am not much behind in civil cases submitted for decision, but otherwise would have been, as much time is required to dispose of heavy criminal calendars, consisting mostly of liquor cases. I have such a term on now, beginning with grand jury February 15 and continuing probably until April 15.

Very sincerely yours,

CHARLES N. PEAY.

UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF MISSOURI,
St. Louis, March 8, 1926.

Hon. KENNETH MCKELLAR,
Member United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of February 27 was found upon my return from a session of court away from home, hence the delay in this reply.

In this district, which includes the city of St. Louis, we have a great many liquor cases. Notwithstanding this fact, within the last year no case, civil or criminal, has been continued for want of time to try. Litigants in the Federal court are able to secure a trial of their case much sooner than they are in the trial courts of Missouri. So I would say that this court is not behind in the trial of its docket. This is the situation, notwithstanding the fact that the State courts in this city give us but little help in the enforcements of the liquor laws. The burden of this work has fallen very largely upon the Federal court in St. Louis. Outside of St. Louis this situation does not exist. In the northern division of the eastern district of Missouri the docket of liquor cases is insignificant. Usually it does not require more than 30 minutes of the court's time at any term. This is due to the fact that the State courts in the rural sections are enforcing the liquor statutes. It has been my duty to sit in other districts of this circuit. In Arkansas, Oklahoma, Iowa, and Utah my observation has been that outside of the congested centers of population the national prohibition law is not placing a tremendous burden on the Federal courts. It is also my view that the situation in this respect has greatly improved in the last year, and that outside of the large cities the State courts are more and more relieving the Federal courts of liquor cases.

If I can be of any further service in the matter, please call upon me.

Yours respectfully,

CHARLES B. DAVIS,
United States District Judge.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
San Francisco, Calif, March 4, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am just in receipt of yours of February 27 inquiring whether or not it is a fact that liquor cases prevent the due administration of justice in the Federal courts. It is difficult to answer that question, so far as this district is concerned, with either an unqualified yes or no.

Of course, we have many hundreds of liquor cases every year, and to the extent that they take the time of the courts necessarily they interfere with other business. However, the judges of this district have not had a great deal of difficulty in finding the time to attend to the other business of the court. In civil cases at law, equity, bankruptcy, admiralty, and patents we are pretty well up to date, and the same is true of other criminal business, the bulk of which pertains to the traffic in narcotics.

The present prohibition director in this district has adopted the policy of having the smaller liquor cases attended to by the State judges and bringing only the larger matters, such as the conspiracy, importation, and still cases, into this court. Of course, that has relieved us of a very large number of the ordinary sale, possession, and nuisance cases.

To answer your question categorically, however, I do not consider that it is true that the due administration of justice is seriously interfered with. If you desire more detail, I shall be very glad to furnish it to you on request.

Yours very truly,

JOHN S. PARTRIDGE,
United States District Judge.

UNITED STATES DISTRICT COURT,
DISTRICT OF MINNESOTA,
St. Paul, Minn., March 6, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have your letter of February 27 relative to the condition of the cases on our docket.

I am inclosing you copy of a letter which we wrote to the United States district attorney some time ago with reference to our situation, which explains it about as well as I am able to explain it.

It is our opinion that if we have to try in this court all of the violators of the national prohibition act who are apprehended in the cities of Minneapolis, St. Paul, and Duluth, as well as in the country districts, we shall have to go out of business as a civil court altogether and devote ourselves entirely to that work. If, on the other hand, we are required to deal only with the major violations of the law and with violations in certain sections of the State where the State authorities themselves are not in a position to handle them, we feel reasonably sure that we can keep up with our work. My belief is that the prohibition administrator of this State feels very much the same way as we do with respect to the class of cases that should be taken into the Federal court, but that the pressure upon him is so great that it is doubtful if he can avoid bringing them in here unless the Department of Justice will consent to permit the district attorney to turn some of the cases into the State courts.

I want you to thoroughly understand that there is no disposition on the part of any of the judges of this court to shirk any of their duties with respect to the transaction of business or to the punishment of violations of any of the national laws; but there is, of course, a limit to human endurance and to the amount of work which can be handled. Furthermore, a police court can not be successfully run which has general terms six months apart. A police court ought to be in continual session. In this State there are six divisions. There is a jury in each division only twice a year and that for a short period. The result is that most liquor law violators are held until the court is in session in that division and that results, where the prohibition agents have been active in that division, in a very considerable congestion of business.

If there is any further information that we can give you with reference to the situation, have no hesitation in calling upon us.

Sincerely yours,

JOHN B. SANBORN.

UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA,
St. Paul, Minn., January 27, 1926.

Hon. LAFAYETTE FRENCH, JR.,
United States District Attorney, St. Paul, Minn.

DEAR MR. FRENCH: The judges of this court have had under consideration the question of the disposition of cases involving violations of the national prohibition act. As you are aware, there has been a tremendous volume of these cases ever since the passage of that act, and during a part of the time, at least, for that reason, it has been impossible for this court to efficiently transact its other business. During the past year, with difficulty, we have been able not only to attend to the disposition of these cases but also to other cases which have been pending.

We realize that you are obliged to bring before the court all cases which are presented to you by those who have the enforcement of this act in charge, where the evidence indicates that violations have occurred, regardless of the seriousness or triviality of such violations. We have reached the conclusion that if this court is to dispose of all business which comes before it, it will be necessary to curtail somewhat the cases arising under the act.

This State has a prohibition law, the purpose of which is to make effective the provisions of the eighteenth amendment, and nearly every violation of the national prohibition act also constitutes a violation of the State prohibition law. It seems to us that minor violations, such as sales of liquor in small quantities in dwellings and apartment buildings, in tailor shops, grocery stores, confectionery stores, and soft-drink establishments, ought to be referred to the State authorities, particularly in communities such as the city of Minneapolis, the city of St. Paul, the city of Duluth, and the other cities of the State the courts in which are in practically continuous session from October until July, and all of which have officers whose duty it is to prosecute such offenses, and also have chiefs of police and peace officers. It will be possible for us, and, of course, it will be our duty, to dispose of all cases involving the more serious infractions of the law—such cases as arise from the transportation, the manufacture, and the importation and sale of liquor in substantial quantities—and to dispose also of cases which arise in communities where no adequate means are provided for their disposition otherwise.

If the work of the court could be limited to the trial and disposition of criminal cases alone, we think it might be possible for us to adequately handle all cases involving violations of the national prohibition act, but there is, as you know, much civil business of great importance before this court at all times, and it does not seem to us fair that the court should function as a criminal court alone, to the detriment of all civil business. Furthermore, we question the necessity and advisability of the Federal authorities, with their limited forces, attempting to police the large communities of this State, which have adequate police facilities, with respect to offenses which are just as much violations of the State law as they are of the national law.

We do not wish in any way to embarrass your office or the Federal Prohibition Department in respect to the work of punishing offenders against this law, but we think that in many respects the State machinery for handling the less serious offenses is better and less cumbersome than the Federal machinery, and we further feel that, in justice to other litigants, we must request that as many of these cases as can properly be handled in that way be brought before the State courts.

It is not necessary to call your attention to the fact that while the State courts in the cities of St. Paul, Minneapolis, and Duluth have petit juries for the trial of these cases, from October to July there are only two terms of Federal court in each city, which last from two to six weeks, which are available for the trial of criminal cases, and that during the rest of the time there are no juries. This is a situation which is taken advantage of by those who are brought before us, and the result is that at each term of court which we hold, we have the accumulations of six months to dispose of; and no way of remedying this situation can be devised, as our terms of court are fixed by Congress and we are not permitted to vary them.

We are not requesting you to violate your duty with respect to the filing of informations or the procuring of indictments for violations of the act in question, but it occurs to us that you might with propriety advise the Attorney General of the situation which exists here, and, possibly, with his assistance, might devise some method of reducing the number of cases brought in the Federal court. It has been our impression that his attitude was that the Federal courts should dispose of those cases which involve the more serious violations, and that the local authorities in those States which had enforcement acts should be required to assume the responsibility of policing their own communities.

Very truly yours,

WM. A. CANT.
JOSEPH W. MOLYNEAUX.
JOHN B. SANBORN.

UNITED STATES DISTRICT COURT,
DISTRICT OF WYOMING,
Cheyenne, Wyo., March 4, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In the absence of Judge Kennedy, which will extend into the first week in April, I have received your letter of February 27 asking information relating to cases upon the docket of this court. Upon the return of the judge I will at once call the matter to his attention. I am,

Very truly yours,

R. H. REPATH, *Secretary.*

UNITED STATES COURT,
Pittsburgh, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of the 27th ultimo has just been received. It is rather difficult to give an exact and specific reply to your inquiry as to how far our court is behind in the cases on its docket. As to our civil cases, we have some 60 pending at the present time, but are as near up to date in the disposition of cases of this type as it is ever possible to be. We have also been able to keep reasonably abreast of the criminal cases up to the present time. By this I mean, not that we have disposed of all criminal cases, but have been able to take care of such as the United States Attorney has, thus far, been able to bring before us. It must be confessed, however, that we view the future with some alarm. We have kept up with our criminal work by means of extra terms devoted largely to national prohibition cases and by the adoption of a policy of fining, rather than imprisoning, first offenders in the absence of circumstances of special aggravation. This policy is not a desirable one from certain angles. For example, it leads those unacquainted with our system and our aims to the belief that violators of the prohibition act are being licensed by means of fines—certainly an undesirable situation from the standpoint of the judges, and the public as well. On the other hand, it has seemed the more desirable of the two horns of the dilema. It has induced numerous pleas and thus enabled us to keep abreast as well as we have. Prior to its adoption, defendants were nearly all demanding jury trials. This led to great congestion in the first place and consequent delay in trial and many acquittals, which would not have resulted had the case been promptly handled. As you know, the "turn over" among prohibition agents is exceedingly large, and if a case be delayed a year or two, very frequently all of the agents connected with it are out of the service. Often, such agents can not be found, or, when found, are hostile to the Government by reason of their dismissal.

More important is this policy, perhaps, as an enforcement measure, in that it creates a record against the defendant. You will recall that the prohibition act punishes subsequent offenses more heavily than the first. The former sentence pleaded in a subsequent indictment aids very materially in convictions and brings about heavier sentences, if violations of the act are continued.

At the present time the clerk's docket contains about 127 pending criminal cases, most of which disclose two or more defendants to the case. In addition to the defendants shown upon the docket, a large number of others have been held for trial by United States commissioners. These cases, numbering about 653, have not as yet reached the court. Some few of them will doubtless be dropped by the United States attorney. We have pending and ready for immediate hearing at the present time some 30 "padlock" injunction cases that are brought under section 22 of the prohibition act and have also a large number of similar cases on the docket. The recent increase in the number of such cases has given us some qualms, but we are not quite in despair as to our ability to work them off within a reasonable time.

From the foregoing it will be apparent to you that we have been able, up to the present time, to handle the business of our court with reasonable promptitude. The volume of prohibition cases has been great, and undoubtedly the existence of them has prevented the trial of other classes of cases as promptly as desired, in some instances. As yet, however, no very considerable complaint has been made by those affected.

I trust that the foregoing will give you the information desired. If you need anything further, I shall be glad to to furnish it, if within my power to do so.

With kind regards, I remain,

Sincerely yours,

R. W. GIBSON.

P. S.—Enclosed is copy of clerk's statement, prepared to enable me to answer your inquiry.

R. W. G.

IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE WESTERN DISTRICT OF PENNSYLVANIA,
March 3, 1926.

Hon. ROBERT M. GIBSON, *Judge:*

The following is submitted as an approximate statement of business transacted, fines collected, and cases undisposed of in this court since November 10, 1925:

Fines assessed and paid since Nov. 10, 1925	$94,465.99
Criminal information and indictments left over since November term	154
Criminal information and indictments begun since Nov. 10, 1925	495
Total	649
Criminal information and indictments disposed since Nov. 10, 1925	522
Criminal information and indictments remaining to be tried	127
Transcripts from United States commissioners (liquor only) filed or ready for filing and not yet converted into criminal informations or indictments	653
Prospective criminal cases	780
Civil cases left over from November term, 1925	21
Civil cases begun since Nov. 10, 1925	166
Total	187
Civil cases disposed of since November, 1925	95
Civil cases remaining to be tried	92
Criminal cases remaining	780
Civil cases remaining	92
Total unfinished business	872

Very respectfully,

J. WOOD CLARK, *Clerk.*
By B. D. GAMBLE, *Chief Deputy.*

UNITED STATES DISTRICT COURT,
DISTRICT OF DELAWARE,
Wilmington, March 3, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: I have your letter of February 27. The work of this court is at the present moment practically up with its docket. The March term opens on Tuesday next. Upon the calendar there are, in addition to the civil causes, 58 criminal cases, of which 47 involve the violation of the Volstead Act. I am, of course, not now advised as to the probable pleas or other disposition of these entered in all of them or in the greater portion of them and a jury trial be required, it would, of course, require many days to clear the docket.

While in the past there have been some delays in this district in civil causes by reason of the number of cases involving the Volstead Act, yet such delays have not been serious. This has been due to the smallness of this district and to the fact that the State authorities have been very active in prosecutions for liquor violations.

I have, from time to time, been assigned to sit in the other districts in this circuit and my experience in those districts has led me to believe that the condition which prevails here does not exist there and that those districts are greatly hampered by criminal cases. I think I should also add that if the number of criminal cases cognizable in the district courts should increase, that it would probably turn out that those lawyers whose experience and ability are such as to enable them to cope properly with the civil causes over which the Federal courts have jurisdiction, would not be inclined to accept the office by reason of the amount of criminal work involved.

I shall be glad to give you frankly any other information or render to you any other service in connection with this matter that you may desire.

Yours very truly,

HUGH. M. MORRIS.

UNITED STATES COURT CHAMBER, SOUTHERN DISTRICT,
Charleston, W. Va., March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter relative to the business of the Federal court received.

This district has 24 counties in the southern part of West Virginia, and has a population of about 900,000. There is very great coal development therein, and some manufacturing. It borders on Ohio, Kentucky, and Virginia, and, of course, the northern district of West Virginia.

In the four years and a half that I have occupied this bench I have had before me about 8,000 persons charged with crime, of which about 80 per cent were for liquor violations. The cases now run from 1,500 to 2,000 per year. There is splendid cooperation between the district attorney's office, the marshal's office, and the prohibition officers, and most of the State and county officers. There is reasonable cooperation between the State judges and myself.

I have a rather close acquaintance with all the State judges in my district and with most of the prosecuting attorneys. To a certain extent I do some administrative work by conferring with them and discussing cases, and by a certain amount of correspondence with them relative to cases.

There is very little liquor made in this district. Detroit runs a good deal here, and some comes from Cincinnati, and quite a bit from the Blue Ridge Mountain section of Virginia, and considerable from the border counties in Kentucky.

It keeps a judge very busy looking after the business of his district. He has no time for anything else, and only by deliberately going away from my office do I snatch a short vacation. I am not like the splendid judge from the eastern district of Kentucky, Judge Cochran, who told me a short time ago that he had never taken a vacation in the 24 years that he had been upon the bench.

I have been able at each term of my court to try every criminal case that was for trial and every civil case that the parties wanted tried in my four and a half years. I have been able to keep up with the bankrupt business that comes to me, but I have fallen somewhat behind on some difficult chancery cases. One very difficult added branch to Federal jurisdiction of late years was the appeals from public service commissions and the Interstate Commerce Commission. A rate case, with a bushel or two of papers that have to be studied, is harder on the judge than all the criminal cases he hears in a year.

The Congress has undoubtedly added much jurisdiction by the narcotic cases, the automobile theft cases, and the interstate commerce theft cases, and the Mann Act. In the coal regions, among the foreign population in particular, there are always some counterfeiting cases, where the money is either made or more usually circulated. There is a continual run of post-office cases, divided into the following classes:

First. Thefts or embezzlements by postmasters or employees.

Second. Burglaries of post offices.

Third. And the most difficult, the using of the mails for purposes of defrauding.

This last list of cases is a growing one, and the post-office inspectors give a great deal of time to it, and it seems to be necessary for the protection of the public. There are so many fraudulent organizations for the purpose of selling stock or other securities that rob the poor public. I have had a great many difficult cases of this character, and there are more of them that ought to be investigated.

While the liquor cases show up the greatest in number, yet I have very few jury trials. In this fiscal year I will have probably 1,800 or 2,000 cases before me, and I doubt whether I will have more than 25 jury trials. I recently had 250 cases before me in Bluefield and had only 2 jury trials, 1 of which was for a liquor case, and 1 for the Mann Act.

The Congress saw fit last March to pass the probation act. To me this was the greatest advance that Congress has made in dealing with criminals. However, I find that General Lord only put into the Budget $75,000 for the whole United States to hire probation officers. This is simply nonsense, and deliberately throttles the execution of the act.

I have put on probation in this district since the act was passed at least 700 persons. Of these 50 per cent are going good. It costs the United States at least a dollar a day to keep a person in jail. Of these 700 at least 400 would be in jail but for this probation act. I feel that I am saving the Government $400 a day thereby. That is the money side of it.

The other side is that these 400 people are at least doing something to support themselves and their families. Otherwise in many instances these families would be charges on the counties for their support.

If this error has not already been rectified in the Department of Justice appropriation bill, I appeal to you as a Senator to do what you can to get a proper appropriation, so that I can have at least one probation officer to give full time to his duties. That is the great work that I now have on me trying to keep up with these probationers myself, with one secretary, and I can not do it, in justice to my other duties, under the law. I should have a probation officer, with at least $300 a month and something for expenses. Supervision of this under probation is absolutely necessary, which I personally, as you readily see, can not give it. Regeneration of fallen human beings is the greatest thing in the world, and I am willing to enter into it to the best of my ability, and do try to keep in touch with these people; but I need this officer, and I need him quickly. If a proper appropriation is not made and a proper amount allotted to my district to hire such an officer, I will simply be compelled to refuse to put any other persons on probation. I had hoped that the proper appropriation would be given for this in the deficiency bill, but it seems not to be there. I have taken this matter up with Senator WARREN and Representative MADDEN and my two good friends the Senators from West Virginia. If you feel any interest in this matter, I would be glad if you would talk with the West Virginia Senators as to what I say, and I refer you to them as to my reliability in making statements.

While I am writing this letter, I have just been interrupted to be informed that two persons in jail are sick. It takes my time, to a certain extent, to have these cases investigated by as reliable a person as I can get, and if they are really ill, then I take the responsibility of turning them out, and you can readily see that this takes time and attention. If I had a good probation officer, who would organize each county with a local probation officer, it would cost not

more per month than I am saving the Government per day, and it would be a great thing for me and my district and for my people.

I talked this matter over with the Attorney General in January, and he promised to see General Lord, but I do not know what has been done.

Knowing, as I do, how busy you are and of the great attention you give to your duties—because of reading the CONGRESSIONAL RECORD more or less—I am taking the opportunity of imposing upon you to give some attention to this, because no doubt it affects your State as much as it does West Virginia.

I am glad to make full and complete statements at any time in reference to my work, and I appreciate your interest in general with the subject matter.

With best wishes and kindest personal regards, I am,

Yours very truly,

GEO. W. MCCLINTIC,
District Judge.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF MISSOURI,
Kansas City, March 2, 1926.

Hon. KENNETH MCKELLER,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Answering your letter of the 27th ultimo regarding the status of our docket, I beg to advise that this district has five divisions, namely, Kansas City, St. Joseph, Jefferson City, Joplin, and Springfield. In all of the divisions, except Kansas City, the dockets are cleared twice each year upon an average of about one week at each point. In Kansas City, however, both our civil and criminal dockets are so heavy that it requires the constant attention of both the judges. At the present time we have at issue many law and equity cases on the civil side and a considerable accumulation of criminal cases. Our civil docket has become much heavier within the last few years.

As to the liquor cases, these have necessarily increased since the enactment of the Volstead law. However, such cases consume comparatively little of the judges' time. It is rare that such cases are contested as practically all defendants in such cases plead guilty. Under such circumstances it requires but a short time to receive a statement of the facts and to impose appropriate penalties.

Violations of the postal and narcotic laws, the Dyer and Mann Acts, and thefts from interstate shipments have all increased within the last few years.

The reports as to the time consumed in disposing of liquor cases are greatly exaggerated. With two judges in this district, litigants experience little delay in the adjustment of their controversies.

I trust this may give you the information desired.

Very truly yours,

ALBERT L. REEVES, *District Judge.*

UNITED STATES DISTRICT JUDGE'S CHAMBERS,
EASTERN DISTRICT OF ARKANSAS,
Little Rock, Ark., March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In reply to your letter I would state that the docket of the courts in my district is not behind in the least. Every case ready for trial is disposed of at the first term to which it is returnable.

By reference to the reports of the Attorney General, you will find that there were disposed of in my courts for the year ending June 30, 1924, 816 criminal cases and 115 civil cases; for the year ending June 30, 1925, 931 criminal cases and 176 civil cases. This is exclusive of bankruptcy cases.

I found sufficient time to sit half of two terms of the circuit court of appeals during 1924, and half of one term of the Circuit Court of Appeals, and two months in the district court in New York City in 1925.

It is true that in large cities there is a great deal more of violations of the prohibition law, and as many of those engaged in it are men of large means, they litigate their cases more strenuously than they do in districts such as mine. My experience is, that in many districts the district attorneys do not dispose of these criminal cases as expeditiously as they should, and when judges only sit four hours a day, they can not do as much work as if they would sit six hours, as I do.

I find that there is fully as much time of the court taken up in the prosecution of violations of the postal laws, especially using the mails to defraud, as in prohibition cases. Those engaged in these postal frauds do not seem to be well enough organized to advocate the repeal of those laws.

Sincerely yours,

JACOB TRIEBER,
United States District Judge.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF NEW YORK,
Buffalo, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In answer to your letter of February 27, inquiring to what extent liquor cases prevent the due administration of justice in the Federal courts, I can only speak of the administration in this district. There are about 1,500 liquor cases pending, and from time to time defendants in large numbers come into court and enter a plea of guilty or not guilty. Besides this number, the district attorney informs me there are approximately 600 cases pending before the United States commissioners upon which information will soon be filed which will bring these cases into this court. In addition thereto there are quite a large number of other criminal cases—just how many I am unable to say—arising from other violations or including violations akin to the prohibition laws, such as smuggling ale or whisky from Canada, and sometimes cases charging bribery or attempts to bribe agents and policemen to prevent arrest and prosecution. Since the prohibition law has been enacted it has been necessary to devote at least three weeks, and sometimes four, at the beginning of each regular term of court to dispose of criminal cases which gives very little time to trials of civil cases.

In this district there are five terms of court in different localities, and it happens, not infrequently, that one term continues until another commences. The liquor cases certainly operate to delay trial of civil causes, for many more negligence cases are now brought in the Federal courts arising from the Federal employers' liability act than formerly, and lawyers for plaintiffs are keen to try their cases as soon as possible. Then there are patent and admiralty cases which must now be tried in open court. For example, I gave the greater part of the month of February to the trial of admiralty causes, and patent trials are heard at various times during the year and when it is possible to give the time.

It is not only the matter of arraignments in liquor cases that takes time, for often motions are made to quash search warrants for illegal searches and seizures, and motions for the return of cars or vehicles improperly seized. These matters, in the main, come up each week on regular motion day and are often continued to other days for one reason or another. This delays other trials and decisions.

To assist in relieving the congestion due to liquor violations and violations of the narcotic act, we have two or three special terms a year with jury, and judges from Vermont, New Hampshire, and once or twice from New York City have been good enough to hold the criminal part here at Buffalo, while I conducted trials at Buffalo or in other parts of the district.

The increase of the business due to the liquor and narcotic laws is such that another judge is needed to dispose of the civil business and criminal trials expeditiously. Such a bill is now pending in the House.

It is not only jury trials which concern us, but there must be time to decide the equity and admiralty case after the evidence is taken, for, as you know, these trials are without a jury, the record being usually large, and opinion being written by the court in rendering decisions.

I hope this will give you a fair insight into conditions here; and also the extent to which these delays exist.

With great respect, I am

Very truly yours,

JOHN R. HAZEL.

UNITED STATES COURT,
Pittsburgh, March 1, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: Your letter of the 27th ultimo duly received. Am having the clerk prepare some data for me and will reply to your inquiry as soon as I receive it; that is, within a day or two.

Very sincerely yours,

R. M. GIBSON.

UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF VIRGINIA,
Lynchburg, Va., March 2, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SIR: Answer to your letter of the 27th ultimo has been delayed by my absence at court.

In so far as the trial of jury cases is concerned, it is hardly accurate to say that my court is behind its docket, and yet, my work is behind, and considerably so. The jury cases are given a preference, and the chamber work in consequence is delayed. I have now in chambers waiting for me about 25 cases, and before I can complete these, there will be about that many more waiting. Work as hard as

I may, and it is a fact that I do work most diligently, I can not keep abreast of the work.

So far as actual jury trials in criminal cases are concerned, there are not a great many more of the prohibition cases in this district than there were revenue cases before the prohibition law was enacted. However, in other directions the prohibition act has considerably increased the work of the court. It would be, however, utterly impossible for me to state, with any accuracy, how much the work of the court has been increased by the prohibition act.

Yours truly,

HENRY C. MCDOWELL.

UNITED STATES COURT CHAMBERS,
Memphis, Tenn., February 27, 1926.

Senator KENNETH MCKELLAR,
Senate Chamber, Washington, D. C.

MY DEAR SENATOR: I am in receipt of your letter of February 25.

The District Court for the Western District of Tennessee is not behind on its calendar at all. There are two more cases to be tried on the civil docket and these will be tried next week. This will clean up every case on our calendar until the next term. We got through the criminal docket in 10 days. It is true that there was a long list of criminal cases, mostly violations of the national prohibition act.

I know nothing, of course, about conditions in other districts, but I find I have no trouble in keeping the criminal cases from clogging the court by setting aside a certain time each week to accept submissions and pleas of guilty. This reduces the calendar when the regular term opens.

The essential weakness of the Volstead Act lies in the fact that a fine in the Federal court means practically nothing. Most of the violators of the prohibition act are very poor people. A substantial fine merely means that the accused goes to jail for 30 days. He can not be made to work, and the net result is that he gets a 30-day rest cure in the nice, clean, sanitary Shelby County jail. He gets better quarters, a better bed, more sanitary surroundings, and better food than he ever had before in his life, and nothing to do.

A fine in the State court is a serious affair, as it either has to be paid in money or else it is worked out on the roads at 40 cents a day. A fine in the Federal court, in 90 per cent of the cases, unless the fine is made very small, merely means a 30-day vacation at the cost of the United States Government.

I am not much in favor of making compulsory imprisonment in first-offense liquor cases, but I do believe if the system of fines in the United States courts could be approximated to the State practice—that is to say, if the prisoner could be made to work his fine out on some Government public work at, say, a dollar a day, the Volstead Act would have all the teeth it needs. Our law imposing fines up to $1,000 in liquor-law violation cases reads very well on paper, but, for the reasons stated above, amounts to practically nothing. If the fine could be worked out on the plan I suggested, a $150 fine would be a very severe punishment for the first offense under the national prohibition act.

Another bad feature of the imprisonment penalty, under the national prohibition act, is that the prisoner spends his sentence in absolute idleness. That is to say, if it is a first offense, and he receives a jail sentence, to put an active, able-bodied man in jail for six months with absolutely nothing to do makes a confirmed loafer out of him for life. The law should be made so as to make Federal prisoners serving jail sentences for misdemeanors do a reasonable amount of work for the benefit of the public.

I do not think these prisoners should be put in competition with honest laboring people, but I do think they should be put to work on the highways, especially now that the Federal Government is giving aid to the States in the construction of national highways. If some of our bootleggers had to get out and break rock for three or four months in building roads, it would be very good for them, very good for the public, and, I think, would deter them from going back into the liquor business. A few months' idleness in a well-conducted, sanitary jail has very little terror for a bootlegger who is making money in his nefarious profession.

Pray pardon me for getting away from the subject you wrote me about, but I feel very strongly on the matters concerning which I have written you.

Yours very sincerely,

H. B. ANDERSON.

UNITED STATES COURT CHAMBERS,
WESTERN DISTRICT OF MICHIGAN,
Grand Rapids, Mich., March 9, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to your letter of February 27, I am pleased to inform you that, although cases arising under the national prohibition act have been numerous and have entailed much additional work, the business of the District Court for the Western District of Michigan is and for many years last past has been up to date. Whatever the conditions may be elsewhere, there have been no delays in the administration of justice in this district.

Very sincerely yours,

C. W. SESSIONS, *District Judge.*

UNITED STATES DISTRICT COURT,
Knoxville, Tenn., March 8, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to yours of February 26, I was appointed in March, 1923, and have, of course, presided over the court in the eastern district of Tennessee since that time. On June 30, 1923, there were 542 criminal cases pending in this district. During the fiscal year from June 30, 1923, to June 30, 1924, there were commenced 716 criminal cases. During that same period there were terminated 725, leaving pending on June 30, 1924, 533. During the fiscal year from June 30, 1924, to June 30, 1925, there were commenced in this district 1,190 cases and terminated during the same period 1,392, leaving pending, June 30, 1925, 331. These figures are taken from the reports of the attorney general for these years, and indicate that while the number of criminal cases has steadily increased, yet we have steadily decreased the number of pending cases, to wit, from 542 on June 30, 1923, to 331 on June 30, 1925.

I am assuming that about 90 per cent of these cases are prohibition cases. I have been able so far to keep fairly well abreast with the law and equity side of the calendar. There has been no material delay in the hearing of equity and law cases, except in this matter, that is to say, that in the hearing of law cases, where they are heard without a jury, and in equity cases, I am compelled to take these under advisement, and the press of jury trials has somewhat delayed a determination of such cases. However, I have striven to determine these cases within the term at which they were tried. You, of course, have in mind that our terms run for six months. I have so far succeeded in this way in handling the cases, with one or two exceptions, where the records were large and the questions difficult.

To keep up with what I consider to be fairly well abreast of my calendar I am compelled, however, to hold court continuously, the court being in session practically all the time. I have heard no serious complaint of delay in this district. You will recall that I am also a judge in the middle district; but Judge Gore, as an additional judge for that district, is better acquainted with the situation there than I can be, and I have no doubt will be pleased to give you any information which you may desire.

Yours sincerely,

C. M. HICKS,
United States District Judge.

UNITED STATES DISTRICT JUDGE,
Baltimore, Md., March 4, 1926.

Senator KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: In answer to your recent inquiry, I beg to state that so far as I can estimate the United States court for Maryland is about a year and a half behind in the cases on the docket. The figures, which are made up to the fiscal year ending June 30 last, show that the court was then at least a year behind, and I am convinced that at least six months' additional arrears have accumulated in the meantime. For the four years from 1922 to 1925 the average number of cases terminated per year was 1,473, while the number of cases commenced in Maryland in the year ending June 30, 1925, was 2,846. The liquor cases are responsible for this condition to a considerable extent. The number of criminal prosecutions instituted in this court for the year ending June 30, 1925, was 1,742, of which classification the far greater number constitute liquor cases. (See p. 176 of the report of the Attorney General of 1925.) Of course, a very large number of the liquor cases result in pleas of guilty or take a comparatively short time to try. While I can not make the statement with complete accuracy, I am fairly certain that in the district of Maryland at least one-half the time of one judge could be continuously employed in the trial of liquor cases.

You will find on page 138 of the report of the Attorney General for 1925 a classification of the cases, civil and criminal, to which the United States was a party. This shows that a total of 8,039 civil cases were commenced in the year 1925, of which 7,271 were under the national prohibition act, and that in the same year, 58,128 criminal cases were begun, of which 50,473 were brought under the national prohibition act.

There is now pending in Congress before the Judiciary Committee of the House a bill to authorize the appointment of 10 additional district judges, 1 of which would be appointed for the district of Maryland. At present there is but 1 district judge in Maryland.

Very sincerely yours,

MORRIS A. SOPER,
United States District Judge.

UNITED STATES DISTRICT JUDGE'S CHAMBERS,
NORTHERN DISTRICT OF ALABAMA,
New Orleans, La., March 3, 1926.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have your favor of February 27. There are seven places of holding court in the northern district of Alabama at each of which court is held twice a year. All criminal cases are reached for trial within six months after the arrest of the defendant and are tried within that time unless one of the parties has a legal ground for continuance. This is true of all the divisions in the district. I think it is a safe estimate that 90 per cent of all criminal cases are actually tried at the first trial term after the arrest of the defendant and within not more than six months of that time. This is also true of civil cases. There is no accumulation of either criminal or civil cases in my district.

Very sincerely,

W. I. GRUBB, *District Judge.*

CLAIMS OF ASSINIBOINE INDIANS

Mr. WILLIS. Mr. President, I have no intention of prolonging this discussion at this late hour and I am not going to do so. I desire to call up another matter. I observe, however, that the Senator from Montana [Mr. WHEELER] is on his feet.

Mr. WHEELER. I am not going to speak. I desire to call up a matter that will take just a second; that is all.

Mr. WILLIS. I yield for that purpose. I desire to call up a bill on the calendar.

Mr. WHEELER. That is exactly what I was going to do.

Mr. WILLIS. All right; let the Senator break the ice.

Mr. WHEELER. Mr. President, I ask unanimous consent to call up for consideration Order of Business 350 and Order of Business 351, being Senate bills 2141 and 2868, and I will ask for their separate consideration.

Mr. KING. Those are bills that passed the Senate at the last session. They are all right.

Mr. WHEELER. Similar bills passed the Senate last year and were killed in the House. They are jurisdictional bills for the Indians.

The PRESIDING OFFICER. The Secretary will state the title of the first bill referred to by the Senator from Montana.

The LEGISLATIVE CLERK. A bill (S. 2141) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of this bill?

Mr. JONES of Washington. Mr. President, does the bill authorize the Court of Claims to enter judgment?

Mr. WHEELER. No. It does finally, if there is a final suit, the same as in any other case in the Court of Claims; that is all.

Mr. JONES of Washington. I know that we adopted the policy some years ago—I think in the last Congress—of referring these matters down to the Court of Claims to get the facts and report back to Congress; but in many cases I know we cut out the provision authorizing the court to enter judgment.

Mr. WHEELER. This is in the regular form. It provides that the Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy, and so forth.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. JONES of Washington. I will withhold objection for a moment, while the Senator examines the bill.

Mr. WILLIS. Mr. President, I ask that it be passed over temporarily, without prejudice, while the Senators are examining the matter.

The PRESIDING OFFICER. Without objection, the bill will be passed over temporarily, without prejudice.

OLDROYD COLLECTION OF LINCOLN RELICS

Mr. WILLIS. Mr. President, I ask unanimous consent to take up at this time Order of Business 235, being Senate bill 957. This bill is in the exact form in which it passed the Senate in the last Congress.

Mr. GEORGE. What is the character of the bill?

Mr. WILLIS. The purpose of the bill is to authorize the Secretary of State, the Secretary of War, and the Attorney General, as a commission, to negotiate for the procurement of what is known as the Oldroyd collection of Lincoln relics.

The Senator knows of the collection of relics in the old building across the street from the Ford Theater. It is a very wonderful collection, the greatest in the world; and, as I have said, the Senate passed the bill in the last session after rather full discussion. At that time the Senator from North Carolina [Mr. OVERMAN] suggested some amendments to the bill, and those amendments were incorporated, and the bill was passed.

I have conferred with the Senator—I regret that he is not in his seat at the moment—and he has told me that he has no objection to the bill. I have talked with a number of Senators, and I know of no objection to it in any quarter.

Mr. JONES of Washington. Is the report of the committee a unanimous one?

Mr. WILLIS. Yes, sir; so far as I know.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. WILLIS. I do.

Mr. KING. I do not object to the consideration of the bill; but I was about to ask, in view of the uncertainty as to the amount to be paid, if it will not be regarded as certain that $50,000 will be paid if we fix that as the maximum?

Mr. WILLIS. I do not think so; but does the Senator suggest an amendment?

Mr. KING. No; I was just wondering about that phase of the matter.

Mr. WILLIS. I will state the reason why that figure was suggested. It is a long story, and an interesting one, if the Senator would like to hear it.

Mr. KING. No; only briefly.

Mr. WILLIS. This old gentleman has spent his life since the time of the Civil War in making this collection. Mr. Ford, I am told, has made an offer of $50,000 for the collection of relics. Likewise, the State of Illinois, at the last session of its general assembly, made an appropriation and appointed a commission to negotiate for the purchase of the relics. Colonel Oldroyd has a patriotic pride in desiring that this collection shall be kept here in the Capital City, where it can be seen by the thousands of tourists who come here. I think he is quite right in that. This bill simply authorizes the Secretary of State and the Secretary of War and the Attorney General to negotiate for the purchase of the collection.

Mr. KING. May I ask the Senator where it is expected that these relics will be deposited after they are purchased by the Federal Government?

Mr. WILLIS. That is a very proper question, and I will state my own feeling about it, though, of course, we are going far afield now.

The building in which the relics now are is not a fireproof building. It is a building of wonderful historic interest and, of course, always ought to be preserved. I have talked with a number of persons who are interested in the matter, and it is their belief that the collection ought to be transferred to some other place, where it can be better protected. However, I am frank to say to the Senator that my feeling is that there is a great deal of argument in favor of keeping this collection, if it shall become the property of the United States, in that building. In that house is the room in which Abraham Lincoln died. I should dislike to see those relics taken away from that room and from that house.

Mr. KING. This means then, of course, that if we pass this bill, further appropriations will be required either to purchase the building——

Mr. WILLIS. That is already the property of the United States. The only question is as to whether it is the proper place in which to keep the relics. My own feeling is, if the Senator is interested in it, that I would rather run the risk of having this collection in a building that is not fireproof than to destroy the sentiment by moving the relics away. I think they ought to remain in that building.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of State, the Secretary of War, and the Attorney General are hereby designated as a commission with authority, in their discretion, to purchase the Oldroyd collection of Lincoln relics, and that the sum of $50,000, or so much thereof as may be necessary, is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to enable the commission to consummate such purchase.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE PROHIBITION LAW

Mr. GEORGE. I ask unanimous consent to have printed in the RECORD an article by Rev. Sam W. Small, a newspaper correspondent in Washington, and a distinguished citizen of my State, which appeared in the Atlanta Constitution of recent date, entitled "Does the South violate the fourteenth and fifteenth amendments?"

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Is there objection to the request of the Senator from Georgia?

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, February 21, 1926]

DOES THE SOUTH VIOLATE THE FOURTEENTH AND FIFTEENTH AMENDMENTS?

By Sam W. Small

WASHINGTON, February 20.—"Are the fourteenth and fifteenth amendments of the Constitution ignored, nullified, and commonly violated in the Southern States?"

The charge that they are so treated has been made for years by newspapers, public speakers, and Congressmen of the Eastern and Northern States and now is openly made by Governor Ritchie, of the border State of Maryland.

Having obtained so distinguished an indorser the charge should now receive more than the contemptuous treatment heretofore accorded it by the publicists and people of the South.

THE FOURTEENTH AMENDMENT

Those who charge that the fourteenth amendment is not observed and enforced in Southern States have particular reference only to these words contained in the amendment, to wit:

"But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male members of such State, being of 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State."

They claim that the negro citizens of the Southern States are generally denied the right to vote in the elections described in the amendment and the penalty prescribed should be applied to such States.

It will be noted that "the Congress shall have power to enforce by appropriate legislation the provisions of this article."

Professor Burdick in his The Law of the American Constitution says "the provision contained in this (second) section of the amendment for the reduction of representation in Congress has never been put into effect."

Why not?

Because the Supreme Court of the United States, in deciding in 1883 that the "civil rights" act (passed by Congress in the belief that it was authorized by the fourteenth amendment) was unconstitutional, pointed out that "It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject of the amendment." The court said the authority of Congress is "to provide modes of redress against the operation of State laws, and the action of State officers, executive or judicial" (109 U. S. 3, 11). Even earlier (100 U. S. 313, 318) the court had held that "Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial departments of the States."

THE FIFTEENTH AMENDMENT

The fifteenth amendment was adopted by the States to give constitutional guaranty to the newly made citizens that their right to suffrage should be the same as that belonging to their white fellow citizens—just that and no more. Their right was not to be "denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," and the enforcement of the amendment was given to the Congress and remains with that body.

Professor Burdick, tracking the decisions of the Supreme Court of the United States, says of the amendment:

"It is directed only against the abridgment of that right on account of race, color, or previous condition of servitude. Therefore congressional legislation which makes it a crime for a State officer to refuse to allow persons to vote without clearly restricting the application of the statute to cases where the refusal is on account of race, color, or previous condition of servitude is unconstitutional." (United States v. Reese, 1875, 92 U. S. 214.)

"Again," he says, "the amendment is not directed against action by individuals, but against action by the States or the United States. So an attempt by Federal legislation to punish private persons who conspire to prevent negroes from voting is not within the power granted by the amendment." (James v. Bowman, 1903, 190 U. S. 127.)

ONLY STATES CAN VIOLATE

Thus it appears that since both the fourteenth and fifteenth amendments are made applicable to State actions, and not those of individuals, only a State can be chargeable with nullifying or violating either of them.

James G. Blaine, in his Twenty Years of Congress (vol. 2, p. 419), says of those amendments:

"The contentions which have arisen between political parties as to the rights of negro suffrage in the Southern States would scarcely be cognizable judicially under either the fourteenth or fifteenth amendment to the Constitution. Both of those amendments operate as inhibitions upon the power of the State, and do not have reference to those irregular acts of the people which find no authorization in the public statutes. The defect in both amendments, in so far as their main object of securing rights to the colored race is involved, lies in the fact that they do not operate directly upon the people, and therefore Congress is not endowed with the pertinent and applicable power to give redress."

GRANDFATHER CLAUSES

The Supreme Court has uniformly held that the amendments do not conflict with the right of a State to require, as a qualification for voting, a literacy test, or a religious test, or a property test, or indeed any test which is not a discrimination on account of race, color, or previous condition of servitude.

Many Northern as well as Southern States have such literacy, property, and poll tax requisitions. But in order not to disfranchise many illiterate white citizens some Southern States, either by constitution or statute, excepted from the literacy test any "person who was on January 1, 1886, or any time prior thereto, entitled to vote under any form of government, or who at that time resided in some foreign nation," and "any lineal descendant of such person"—all which terms excluded persons of color—and these acts were commonly known as "grandfather clauses." Naturally they caused bitter complaints by the negroes and their special friends in the North.

Some peculiar justifications were urged for those enactments. It was shown that the constitution of Illinois (1870) specially enfranchised every person "who was an elector in this State on the 1st day of April, in the year of our Lord, one thousand eight hundred and forty-eight"—which was 22 years theretofore.

It was also pointed out that President Grant, in 1875, in his annual message to Congress, recommended that education should be made compulsory "so far as to deprive all persons who can not read and write from becoming voters after the year 1890, disfranchising none, however, on grounds of illiteracy who may be voters at the time this amendment takes effect."

But the whole subject became obsolete with the decisions of the Supreme Court in 1915 (238 U. S. 347, 368) that all such "grandfather clauses" are unconstitutional under the fifteenth amendment.

DOES THE SOUTH NULLIFY?

The renewed agitation accusing the South of nullifying the negro amendments has arisen from the discussion of the widespread violations of the eighteenth, or prohibition, amendment.

Referring to the fifteenth amendment one accuser, in the Washington Post, says: "I wonder why this amendment is so bad that it can not be enforced by the Government and several millions of dollars appropriated and a flock of agents and spies appointed to enforce this law?"

Another, in the New York World, says: "The southern democracy has opposed and nullified the fourteenth and fifteenth amendments for 50 years with impunity."

Yet another, in the New York Evening Sun, demands to know if the prohibitionists "would be willing to advocate a preliminary appropriation of $8,000,000 by Congress to send an army of worthy northern black Republicans down South to enforce the thirteenth, fourteenth, and fifteenth amendments to the Constitution and the bloody shirt laws?"

While a notable Washingtonian writes to The Nation periodical that "the flagrant disregard of the fourteenth and fifteenth amendments to the Constitution is a precedent for the lamentable disregard of the eighteenth amendment."

All of which statements recall the well-known aphorism of Josh Billings that "it is better not to know so many things than to know so many that ain't so!"

WHAT GOVERNORS SAY

In January, 1924, the writer of this article addressed a letter to the governor of each of the Southern States asking for official answers to the following questions, to wit:

1. Is there in the statutes of your State any law intended or that operates to violate either the fourteenth or fifteenth amendment?

2. Is there any discrimination in the constitution or laws of your State against negroes, as to suffrage, "on account of race, color, or previous condition of servitude?"

3. Are the nonvoting negroes in your State disfranchised by law, or are they self-disfranchised by failure to comply with the laws of the State?

Governor Brandon, of Alabama, replied in the negative to the first and second questions, and as to third, said:

"The nonvoting negroes in Alabama are disfranchised merely because they fail to qualify by registering or because they fail to comply with the laws of the State, which are applicable to the whites as well as to the negroes. The constitution as well as the statutes of this State prescribe the qualifications and disqualifications of the voter, but there is no discrimination on account of race, color, or previous condition of servitude. Both the constitution and the statutes provide reasonably adequate modes of testing the validity of any of the election laws in Alabama by review in all the State and Federal courts."

Governor McRae, of Arkansas, formerly a Member of the Congress, wrote as follows:

"I am not aware of the existence of any State statute here that would conflict with the fourteenth and fifteenth amendments to the Federal Constitution. There is no State law in Arkansas the wording of which would indicate discrimination against negroes as such. Negroes vote in our general elections, both State and national. It is true that not many of them assert the right, but they can do it."

Gov. John M. Parker, of Louisiana, answered "no" to the first and second queries, and as to the third said:

"They disfranchise themselves by failure of being able to comply with the laws pertaining to suffrage."

He urged the "exposing of the falsity of prevailing propaganda that the fourteenth and fifteenth amendments are openly violated in every Southern State."

Governor Whitfield, of Mississippi, emphatically negatived the first and second queries, and to the third replied:

"The nonvoting negroes in Mississippi are not disfranchised by law, but rather by failure to comply with the laws of the State, which require that those offering to vote must read and write and understand the constitutions, both State and Federal, and have lawful residence and qualifications."

Gov. Austin Peay, of Tennessee, wrote:

"In reply I will say that no statute of the character referred to exists in Tennessee. We have no restriction on suffrage, except payment of poll tax 60 days before election. No attempt is made in this State to prevent our negroes from voting, and they vote, I should say, in as high ratio of population as the whites."

Governor Fields, of Kentucky, a former Congressman for many terms, answered "no" to the first two questions and confirmed the fact that the only disfranchisement of negroes in Kentucky is self-imposed.

Governor Hardee, of Florida, answered the queries specifically to the same effect as the other executives above quoted.

Gov. Clifford Walker, of Georgia, denied that the State has any laws violating the mentioned amendments, or that discriminate against the negroes in the matter of suffrage. "If they will comply with the laws of the State the same as I have to do they can vote as readily and safely as I can," adds this chief magistrate of Georgia.

Governor Trinkle, of Virginia, Governor Morrison, of North Carolina, Governor McLeod, of South Carolina, and Gov. Pat Neff, of Texas, all answered in practically the same terms and all of them challenged the production of any valid evidence that the fourteenth and fifteenth amendments are nullified and nonobserved in their States.

ARE THEY LIES?

Unless those persons who are so loudly proclaiming that the southern people are "openly and flagrantly violating the fourteenth and fifteenth amendments" can produce proofs that will convict all these State governors as "forgers of lies" and unworthy of public credit, the fact becomes incontestable that the charge against the South is either ignorantly or maliciously false.

Since only a State by its officials can violate the amendments in question, and only the State can be penalized by reduction of its representation, no sanction can be found in the Southern States for violations and nullifications of a police amendment that applies to every individual as does the eighteenth amendment.

In conclusion, it would be well for those who are accusing the southern people of flouting the "war amendments" to read and consider the statement by the Supreme Court in the famous Slaughter House cases (16 Wall. 36) that:

"We doubt very much whether any action of a State, not directed by way of discrimination against the negroes, as a class, will ever be held to come within the purview of this provision"—the penal clause of the fourteenth amendment.

Then let them compare the suffrage restrictions in Maine, Vermont, Massachusetts, and New York with those in any Southern State for further illumination.

CLAIMS OF ASSINIBOINE INDIANS

Mr. WHEELER. I renew my request that the Senate proceed to consider Senate bill 2141, conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

Mr. JONES of Washington. The bill was reported unanimously by the committee?

Mr. WHEELER. It was. It was passed at the last session.

Mr. JONES of Washington. Passed in this form?

Mr. WHEELER. In this form.

Mr. JONES of Washington. Under those circumstances, I make no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indians Affairs with amendments, on page 2, line 16, after the word "against," to insert "the United States, it being the intent of this act to confer upon the"; in section 3, page 3, line 23, after the word "any," to insert "Executive order"; in line 25, after the word "Indians," to strike out "if legally chargeable against that claim" and insert "including gratuities"; in section 4, page 4, line 3, after the word "any," to insert "Executive order"; and, in section 8, on page 5, line 21, after the name "United States," to insert a colon and the following proviso: "*Provided*, That actual costs necessary to be incurred by the Assiniboine Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Assiniboine Tribe in the Treasury of the United States," so as to make the bill read:

Be it enacted, etc., That all claims of whatsoever nature which the Assiniboine Indian Nation or Tribe may have against the United States, which have not heretofore been determined by a court of competent jurisdiction, may be submitted to the Court of Claims for determination of the amount, if any, due said Indians from the United States under any treaty or agreement or law of Congress, or for the misappropriation of any of the property or funds of said Indians, or for the failure of the United States to administer the same in conformity with any treaty or agreement with the said Indians: *Provided*, That if in any claim submitted hereunder a treaty or an agreement with the Indians be involved, and it be shown that the same has been amended or superseded by an act or acts of Congress, the court shall have authority to determine whether such act or acts have violated any property right of the claimants, and, if so, to render judgment for the damages resulting therefrom; and jurisdiction is hereby conferred upon said Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims of whatsoever nature which said Indians may have against the United States, it being the intent of this act to confer upon the said Court of Claims full and complete authority to adjust and determine all claims submitted hereunder so that the rights, legal and equitable, both of the United States and of said Indians may be fully considered and determined and to render judgment thereon accordingly.

SEC. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this act, and such suit shall make the Assiniboine Nation or Tribe party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Assiniboines approved by the Commissioner of Indian Affairs and the Secretary of the Interior; and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Indian nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in any suit; and the United States shall be allowed credit subsequent to the date of any Executive order, law, treaty, or agreement under which the claims arise for any sum or sums heretofore paid or expended for the benefit of said Indians, including gratuities.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any Executive order, law, treaty, or agreement, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, damages therefor shall be confined to the value of the money or other property at the time of such appropriation or disposal, together with interest thereon at 5 per cent per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall

annul and cancel all claim, right, and title of the said Assiniboine Indians in and to such money or other property.

SEC. 5. That upon the final determination of any suit instituted under this act the Court of Claims shall decree such amount or amounts as it may find reasonable to be paid the attorney or attorneys so employed by said Indian nation for the services and expenses of said attorneys rendered or incurred subsequent to the date of approval of this act: *Provided*, That in no case shall the aggregate amounts decreed by said Court of Claims for fees be in excess of the amount or amounts stipulated in the contract of employment, or in excess of a sum equal to 10 per cent of the amount of recovery against the United States.

SEC. 6. The Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 7. A copy of the petition shall, in such case, be served upon the Attorney General of the United States, and he, or some attorney from the Department of Justice to be designated by him, is hereby directed to appear and defend the interests of the United States in such case.

SEC. 8. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 5 per cent per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States such costs shall be included in the amount of the judgment or decree, and if against said Indians shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of the United States: *Provided*, That actual costs necessary to be incurred by the Assiniboine Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Assiniboine Tribe in the Treasury of the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLAIMS OF CROW INDIANS

Mr. WHEELER. I now ask that the Senate proceed to the consideration of Senate bill 2868, conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Crow Indians may have against the United States, and for other purposes.

Mr. JONES of Washington. A similar bill was passed before?

Mr. WHEELER. It was.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments, on page 1, line 3, after the word "nature," to insert "including what is known as the River Crow claim"; in line 5, after the word "tribe," to insert "or any branch thereof"; on page 2, line 5, after the word "Indians," to insert "or any Executive order"; on page 2, line 7, after the word "Indians," to insert "or any Executive order"; in line 16, after the word "Indians," to insert "or the River Crow Indians"; in line 17, after the word "against," to insert "the United States, it being the intent of this act to confer upon"; in section 2, on page 3, line 7, after the word "the," to strike out "Crows" and insert "Crow Tribe of Indians"; on the same page, in line 15, after the word "said," insert "Crow"; in section 4, on page 4, line 7, before the word "agreement," to strike out "or"; in the same line, after the word "agreement," to insert "or Executive order"; in line 9, after the word "Indians," to insert "or obtained lands from the Crow Indians for an inadequate consideration under mistake of fact"; and in section 8, on page 6, line 2, after the name "United States," to insert a colon and the following proviso: "*Provided*, That actual costs necessary to be incurred by the Crow Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Crow Tribe in the Treasury of the United States," so as to make the bill read:

Be it enacted, etc., That all claims of whatsoever nature including what is known as the River Crow claim, which the Crow Indian Nation or Tribe or any branch thereof may have against the United States which have not heretofore been determined by a court of competent jurisdiction may be submitted to the Court of Claims for determination of the amount, if any, due said Indians from the United States under any treaty or agreement or law of Congress, or for the misappropriation of any of the property or funds of said Indians, or for the failure of the United States to administer the same in conformity with any treaty or agreement with the said Indians or any Executive order: *Provided*, That if in any claim submitted hereunder a treaty or an agreement with the Indians or any Executive order be involved, and it be shown that the same has been amended or superseded by an act or acts of Congress, the court shall have authority to determine whether such act or acts have violated any property right of the claimants and, if so, to render judgment for the damages resulting therefrom; and jurisdiction is hereby conferred upon said Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, to hear and determine all legal and equitable claims of whatsoever nature which said Indians or the River Crow Indians may have against the United States, it being the intent of this act to confer upon said Court of Claims full and complete authority to adjust and determine all claims submitted hereunder, so that the rights, legal and equitable, both of the United States and of said Indians, may be fully considered and determined, and to render judgment thereon accordingly.

SEC. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this act, and such suit shall make the Crow Nation or Tribe party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Crow Tribe of Indians, approved by the Commissioner of Indian Affairs and the Secretary of the Interior; and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Crow Indian Nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian nation.

SEC. 3. That if any claim or claims be submitted to said court it shall determine the rights of the parties thereto, notwithstanding lapse of time or statutes of limitation, and any payment which may have been made by the United States upon any claim so submitted shall not be pleaded as an estoppel, but may be pleaded as a set-off in any suit; and the United States shall be allowed credit subsequent to the date of any law, treaty, or agreement under which the claims arise for any sum or sums heretofore paid or expended for the benefit of said Indians, if legally chargeable against that claim.

SEC. 4. That if it be determined by the court that the United States, in violation of the terms and provisions of any law, treaty, agreement, or Executive order, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, or obtained lands from the Crow Indians for an inadequate consideration under mistake of fact, damages therefor shall be confined to the value of the money or other property at the time of such appropriation or disposal, together with interest thereon at 5 per centum per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall annul and cancel all claim, right, and title of the said Crow Indians in and to such money or other property.

SEC. 5. That upon the final determination of any suit instituted under this act the Court of Claims shall decree such amount or amounts as it may find reasonable to be paid the attorney or attorneys so employed by said Indian nation for the services and expenses of said attorneys rendered or incurred subsequent to the date of approval of this act: *Provided*, That in no case shall the aggregate amounts decreed by said Court of Claims for fees be in excess of the amount or amounts stipulated in the contract of employment, or in excess of a sum equal to 10 per cent of the amount of recovery against the United States.

SEC. 6. The Court of Claims shall have full authority by proper orders and process to bring in and make parties to such suit any other tribe or band of Indians deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 7. A copy of the petition shall in such case be served upon the Attorney General of the United States, and he, or some attorney from the Department of Justice to be designated by him, is hereby directed to appear and defend the interests of the United States in such case.

SEC. 8. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto and shall draw interest at the rate of 5 per cent per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States, such costs shall be included in the amount of the judgment or decree and, if against said Indians, shall be paid by the Secretary of the Treasury out of the funds standing to their credit in the Treasury of

the United States: *Provided*, That actual costs necessary to be incurred by the Crow Indians as required by the rules of court in the prosecution of this suit shall be paid out of the funds of the Crow Tribe in the Treasury of the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in claims which the Crow Tribe of Indians may have against the United States, and for other purposes."

THE PROHIBITION LAW

Mr. BRUCE. Mr. President, I give notice that at the conclusion of the routine morning business on Monday next I shall make a brief reply to the Senator from Tennessee [Mr. MCKELLAR].

LONG-AND-SHORT-HAUL CLAUSE OF INTERSTATE COMMERCE ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 575) to amend section 4 of the interstate commerce act.

Mr. GOFF. Mr. President, I would like to take just a few minutes of the time of the Senate while the measure relating to the long-and-short-haul clause is pending. I desire to make a few observations concerning a matter that is vital to my State, and of deep interest to the people of the Northwest. I wish to clarify a situation, if possible, that has arisen as a result of misrepresentation and a conscious distortion of the facts.

In the Daily Metal Trade, published at Cleveland, Ohio, the issue of March 5, is an article which recites that—

> the soft-coal authorities of Cleveland are meeting to-day in Pittsburgh with operators from that district in planning their combined attack before the Interstate Commerce Commission.
>
> This will be the third attempt since 1920—

says the Daily Metal Trade—

> on the part of Ohio and Pennsylvania operators to bring about this greatly sought restoration of the old-time coal-rate parities.

I would refrain from consuming the time of the Senate with the presentation of the article were this an isolated instance of misrepresentation of existing conditions. But it is not. Ohio and Pennsylvania newspapers have frequently declared that a preferential rate has been given to southern West Virginia and eastern Kentucky in the shipment of coal to ports on the Great Lakes. So frequent has been this misrepresentation that there are many people in Ohio and Pennsylvania today who are convinced that the freight rate from southern West Virginia to the Great Lakes is lower than the rate from the Pittsburgh district.

This erroneous conclusion has gained currency as the result of a campaign of misleading propaganda initiated by the affected districts following the decision of the Interstate Commerce Commission, rendered July 26, 1925, in what has become known as the Lake Cargo case (I. C. C. Docket 15007). This campaign of misrepresentation has been continued uninterruptedly and reached its climax following the filing of a petition by the Pittsburgh Coal Operators' Association on December 30 last for reargument of the Lake Cargo case.

I have an abundant faith in the Interstate Commerce Commission as an agency of the Government. It is quasi-judicial in character and is a constitutionally created instrumentality for the adjudication of such problems as have arisen in the Lake Cargo case. Because of my faith in the capability and integrity of the commission I refrained, while the application for rehearing was pending, from a discussion of the Lake Cargo rates, even while misleading information was being circulated. The conditions involved became only recently a subject of discussion on the floor of the Senate. My profound respect and unlimited confidence and exalted admiration of the Supreme Court of the United States would preclude my discussion of a cause pending in that tribunal for decision, and the respect that I entertain for the Interstate Commerce Commission compels a similar observance of the proprieties.

The decision of the Interstate Commerce Commission in the Lake Cargo case was rendered last July after an extended hearing and a comprehensive investigation that had lasted for two years. The commission considered every angle, in fact, every phase of the controversy. It gave thorough and painstaking consideration to the legal principles involved and the evidence presented. It held that the rates on the shipments of coal from West Virginia and Kentucky were not unduly preferential, and it declined to grant the petition of the Northeastern Ohio and Pittsburgh district operators to increase the differential against West Virginia and Kentucky.

On March 3 last the Interstate Commerce Commission acted favorably on the petition of the Pittsburgh district to reopen the case and in an order then issued gave the litigants in interest 20 days in which to show cause whether additional evidence should be presented.

I take it that the commission desired to have for its consideration any new evidence that protestants or intervenors may have discovered. There is no inclination on my part to discuss this phase of the question. I only desire to express the wish that a final decision will be forthcoming at an early date for the reason that prolonged delay means a heavy burden of additional expense on an industry that is prostrate and will as a result of delayed orders materially affect the markets of the Northwest for this basic product. I have no doubt that the commission will consider the vital interests of the coal consumers in the great Northwest, as well as the interests of the producers in the competing districts. I feel that the commission in good time will render its decision in agreement with the law and the evidence and that it will not be swerved from the path of duty by political influence, threats, criticism in public place, or by the repetition of published misinformation.

In justice, however, to the coal industry of my State, upon which a large measure of our population is dependent. I must refute the recurring reports so frequently published that West Virginia and eastern Kentucky possess preferential rates on the shipment of coal to the lake ports and that such rates are responsible for the suspension of mines in Ohio and Pennsylvania.

"It is a campaign to restore the old-time differentials to rates which now operate to favor mines south of the Ohio River," says the Cleveland newspaper.

It is not, let me say, a campaign to restore the old-time differentials between the competing districts. It is a campaign to give additional advantages in freight rates to the Pittsburgh and Cambridge districts over West Virginia and eastern Kentucky.

Pittsburgh now has an advantage in freight rates ranging from 25 cents to 40 cents on every ton of coal shipped from southern West Virginia or eastern Kentucky to the lake ports. The petition of the Pittsburgh operators is to increase that advantage, to spread that differential from 25 to 40 cents to 68 and 83 cents.

That is precisely what the Pittsburgh district has asked and continues to ask the Interstate Commerce Commission to do. To comply with that request, of course, would have but one result. It would mean the exclusion of West Virginia coal, the exclusion of coal from Virginia, Tennessee, and Kentucky, from the markets of the Northwest. And it would leave the coal consumers of Michigan, Wisconsin, Minnesota, North and South Dakota at the mercy of the Pittsburgh and Cambridge producer. Competition would be destroyed, and consumers in that vast territory would be compelled to buy Pittsburgh coal at whatever prices Pittsburgh would care to exact. And in this connection I am informed that the consumers of the Northwest, including public service commissions representing three States, vigorously opposed in the former hearings any increase in existing differentials. The consumers in that great domain demand competition.

Let me reiterate that Pittsburgh now has an advantage of from 25 to 40 cents on every ton of coal shipped to the lake ports over southern West Virginia and eastern Kentucky. The records of the Interstate Commerce Commission will verify this assertion. This being true, I ask if it is reasonable to assume that the lower freight rates enjoyed by Pittsburgh and northeastern Ohio are responsible for closing the mines in these districts? That is precisely what was charged by the Senator from Pennsylvania on the floor of the Senate.

West Virginia has always been obliged to pay a freight rate in excess of Pittsburgh and northeastern Ohio on lake coal shipments. There has never been a time when Pittsburgh and northeastern Ohio did not have an advantage in coal rates over West Virginia to the lake ports.

In proof of this statement I ask leave to insert in the RECORD a statement which shows the freight rates from the southern West Virginia coal fields as compared with the Pittsburgh and northeastern Ohio coal fields to the Lakes since 1903.

The PRESIDING OFFICER. Without objection, permission is granted.

The statement is as follows:

Lake cargo rates per net ton with differentials in favor of Pittsburgh at different periods since 1902

Year	Pittsburgh district	No. 8 Ohio district	Kanawha-Thacker districts
1903-1907	$0.83	$0.80	$0.92
1907-1912	.88	.85	.97
1912-1917	.78	.75	.97
1917	.93	.90	1.18
1918-19	1.30	1.27	1.55
1920 (Aug. 26)	1.86	1.83	2.11
1921 (May 4)	1.58	1.55	1.83
1921 (Nov. 1)	1.86	1.83	2.11
1922 (July 1)	1.66	1.63	1.91
1923	1.66	1.63	1.91
Present	1.66	1.63	1.91

	Pocahontas-New River districts	Pittsburgh differential over Kanawha and Thacker	Pittsburgh differential over Pocahontas
1903-1907	$1.07	$0.09	$0.24
1907-1912	1.12	.09	.24
1912-1917	1.12	.19	.34
1917	1.33	.25	.40
1918-19	1.70	.25	.40
1920 (Aug. 26)	2.26	.25	.40
1921 (May 4)	1.98	.25	.40
1921 (Nov. 1)	2.26	.25	.40
1922 (July 1)	2.06	.25	.40
1923	2.06	.25	.40
Present	2.06	.25	.40

Mr. GOFF. The Pennsylvania and Ohio interests have by their propaganda attempted to create the impression that the recent proceedings before the Interstate Commerce Commission were designed to restore freight relationships that at one time existed.

The statement that I have filed clearly refutes this impression. The statement shows that prior to 1912 the southern West Virginia district had rates ranging from 9 to 24 cents per ton in excess of rates in the Pittsburgh district; that from 1912 to 1917 the southern West Virginia fields had rates from 19 to 34 cents over the Pittsburgh district; and that from 1917 to date the southern West Virginia districts have been obliged to pay from 25 to 40 cents over the Pittsburgh district on lake coal shipments.

On a highly competitive commodity like coal a difference of 25 and 40 cents per ton in favor of one coal district as against another is a substantial difference of great advantage in the sale of coal; in fact, the difference is greater than the profit that the operator can frequently obtain per ton on his coal.

The Pennsylvania fields complain that they have lost tonnage to the Lakes in recent years. Evidence in the Lake Cargo case shows that during the last year of record in that case, 1923, the Pittsburgh and northeastern Ohio districts shipped two-thirds of all the coal that went to the Lakes, and that the southern West Virginia and eastern Kentucky fields have shipped about one-third. The Pennsylvania interests claim that during the years 1924 and 1925 the coal shipments to the Lakes have substantially increased from West Virginia and have decreased from the Pennsylvania fields. I am informed that this is true; but I now assert that the increase of coal shipments from West Virginia to the Lakes in face of the disadvantage in freight rates under which it operates of from 25 to 40 cents on each ton has not been caused by freight rates.

It is a matter of common knowledge that the policies which have prevailed among the coal operators in Pennsylvania with respect to wage and other mining conditions have caused the decrease in the tonnage from those fields. In the Coal Trade Bulletin of July 6, 1925, there appears an article prepared by C. E. Lesher, assistant to the president of the Pittsburg Coal Co., which states that—

> The trouble is that the coal producers in the Pittsburgh district are handicapped by a wage scale so high that it shuts them off from near-by as well as distant markets.

In the same bulletin of June 1, 1925, there appear extracts from a speech by Mr. T. M. Dodson, vice president of the Pittsburg Coal Co., to the same effect. The coal-trade journals have been full of similar admissions by coal operators in the Pennsylvania fields. In short, the freight rates about which we have heard so much have not been the cause of the late deplorable strike or the closing of the mines or the decrease in the tonnage in the Pittsburgh district in 1924 and 1925.

It is apparent that the Pennsylvania and Ohio interests are seeking to persuade the Interstate Commerce Commission to exercise its great powers to equalize the different mining and other conditions that exist in the different competing coal districts by means of freight rates. The interstate commerce laws were never designed to be exercised in any such manner.

My sole purpose, Mr. President, in submitting these remarks has been to refute the misinformation that has been scattered to arouse protests against the decision of the Interstate Commerce Commission. I am content to present the facts, without criticism or defense. They speak too strongly to justify interpretation or permit construction. The country is entitled to know them, and the Senate, I feel, will welcome a statement that reflects conditions as they are and not as some would have them.

ADJOURNMENT

Mr. JONES of Washington. I move that the Senate adjourn.

The motion was agreed to; and the Senate (at 6 o'clock and 5 minutes p. m.) adjourned until Monday, March 15, 1926, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

SATURDAY, *March 13, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, blessed be Thy holy name. Thou art infinite love, hence we do not fear nor tremble in Thy presence. While all about us are the tokens of Thy power, yet Thou hast overlaid them with divine gentility. O make us strong with the sense of Thy strength, make us wise with the sense of Thy wisdom, and make us better with the sense of Thy goodness. Bless all institutions which nurture and care for humanity. United may they be in faith, hope, and charity. Enable us always to be in sympathy with men, their duties, and their needs. Amen.

The Journal of the proceedings of yesterday was read and approved.

PERMISSION TO ADDRESS THE HOUSE ON FRIDAY, MARCH 19

Mr. SHALLENBERGER. Mr. Speaker, on the 19th of March is the anniversary of the birthday of a great American citizen. I want to ask unanimous consent that on next Friday, the 19th of this month, after the reading of the Journal, that one hour's time may be granted so that myself, the majority leader [Mr. TILSON], the minority leader [Mr. GARRETT], and other Members may be permitted to address the House in honor of the memory of William Jennings Bryan.

The SPEAKER. The gentleman from Nebraska asks unanimous consent that on next Friday, after the reading of the Journal and disposition of matters on the Speaker's table, that one hour be granted to various Members of the House to deliver eulogies on the memory of William Jennings Bryan. Is there objection?

Mr. MADDEN. Mr. Speaker, will it interfere with the consideration of appropriations bills on the calendar at that time?

The SPEAKER. It will supersede anything except conference reports and——

Mr. MADDEN. I do not think I want to object, but I think we want to expedite the public business and not let anything intervene.

Mr. SHALLENBERGER. Mr. Speaker, if I may be permitted, I will say it is well known that Mr. Bryan was at one time a distinguished Member of this body; that on the 19th of the month a great movement will be inaugurated throughout the United States to raise funds for building a proper monument for him in this city, and it was in recognition of that movement that I have made this request.

Mr. MADDEN. Nobody has more respect for the genius of Mr. Bryan than I have, and I am not going to object, but I simply wanted to call attention to the possibility of its disturbing public business. If it is to be a nation-wide movement, it might as well start here as anywhere else.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ORDER OF BUSINESS

Mr. GARNER of Texas. Mr. Speaker, will the gentleman from Connecticut, the majority leader, ask permission of the House for time in which to take us into his confidence and